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www.ogeecheeriverkeeper.org
Working Together to Protect the Ogeechee, Canoochee and Coastal Rivers

October 14, 2024

Via E-Mail

Commander, U.S. Army Corps of Engineers, Savannah District
ATTN: Ms. Nicole Liette
4751 Best Road, Suite 140
College Park, Georgia 30337
Nicole.m.liette@usace.army.mil

Re: JH Industrial Site Expansion Application - Permit No.: SAS-2021-00694

Dear Ms. Liette,

Ogeechee Riverkeeper 501(c)(3) (ORK) works to protect, preserve, and improve the water quality of the Ogeechee River basin, which includes the Canoochee River, tributary streams, and all of the streams flowing out to Ossabaw Sound and St. Catherine's Sound. The Ogeechee River system drains more than 5,500 square miles across 21 counties in Georgia. ORK works with local communities to retain the ecological and cultural integrity of rivers, streams, wetlands, and related habitats throughout the Basin. One of ORK's primary roles is as watchdog on new land development projects throughout the watershed that could pose a significant threat to its water quality and aquatic environments.

ORK offers these comments on application from Mr. Alton Brown, Jr. (Resource & Land Consultants) on behalf of Mr. Chris Hayes (SPH-J, LLC) and Mr. Mark Barbato (Bloomington/JDL Investors, LLC) under Clean Water Act (CWA) Section 404 for the expansion of the JH Industrial Site, located east of the Jimmy Deloach Parkway and west of Osteen Road in the City of Bloomington, Chatham County, Georgia (Latitude 32.1181, Longitude -81.3163). Our comments concern (1) the purpose and need for this development, (2) the need to seriously consider a "No Action" alternative or any alternative at all, and (3) the need to preserve wetlands and mitigate on-site if the permit is accepted. Ultimately, ORK urges the U.S. Army Corps of Engineers (USACE) to assess the purpose and need of the proposed action, consider additional alternatives, seriously consider the wetlands impact compared to previous and proposed fills, and, ultimately to deny this requested expansion as proposed.

1. No demonstrated 'need' for the development's proposed 'purpose'

The Savannah regional market does not have a demonstrable need for this proposed warehousing and distribution development. Warehouse development continues at an unprecedented rate, leading to an oversupply of

space. Looking specifically at the Savannah-area warehousing market, vacancy rates have continued to rise over the previous year. As of 2024 Q2, the last with full data, the vacancy rate was 8.02%.¹ While this is a slight decrease from 2024 Q1's rate of 8.36%,² it is still elevated compared to 2023 Q4's rate of 7.23%,³ which itself was an increase from 2023 Q3's vacancy rate of 4.23%.⁴ The vacancy rate remains very elevated from the recent low seen in 2022 Q4's vacancy rate of less than 1%.⁵ The 2024 Q1 report attributes the trend of increases to "several bulk spec deliveries," a trend which will continue as at least 21 projects are under construction in addition to numerous other sites recently rezoned for even more warehouse space construction. Simply put, there is no clear need for more warehouse space and that purpose is not a legitimate basis for this project and its associated wetlands fill.

With this increasing rate of warehouse vacancy, the purpose of "an expansion of warehousing and supply-chain distribution space to service the long-term needs of businesses operating within the Port of Savannah" does not have a clearly demonstrated "need." Based on the 8.02% vacancy rate of the Savannah Region's existing 134,481,591 square feet,⁶ there is currently 10,785,423 square feet of already-existing and unoccupied warehouse and distribution space - an increase of 54,576 sq ft of additional and available warehouse space from Q1 2024's 10,730,847 sq ft of available space. Another 12,552,522 square feet was under construction as of 2024 Q2, with millions more square feet rezoned and permitted but not yet under construction. An example of rezoned, permitted, and unbuilt warehouse space is the Seaport 16 Trade Center development, whose construction is on hold based on a slow down in the tenant market.⁷ The JH Industrial Site's 84,000 square feet of additional space only adds to the existing and growing trend of warehouse space oversupply and contributes to the current over-build and its related environmental damage. In addition, the proposed 84,000 sq ft expansion is a relative drop in the bucket to meet the purported purpose of "serving long-term need," contributing merely 0.77% to existing available space - less than a 1% contribution to the existing supply.

Further, the applicant's proposed justification of need for the expansion is questionable. The Joint Public Notice's Background section notes that permitted and constructed spaces were purchased and, therefore, demand warrants the proposed expansion. There are two issues with this conclusion. First, purchase by investment firms does not necessarily mean that the space is or will be utilized. As seen in the Colliers Market Report, millions of square feet of warehouse space is speculative and vacant. Purchase of unused warehouse space could easily add to that speculative overbuild and not reflect any demand for actual usage. Second, the proposed expansion will provide warehouse space that is significantly different from the site's previous constructions. The smallest building from those earlier stages was 240,000 sq ft. The proposed expansion is slightly more than one-third of that space. This smaller size potentially limits the attractiveness of the space and limits the pool of potential users. Because of this, basing the demand on the site's previous transactions is not a one-to-one comparison. And as such, ORK is not convinced of the justification for this expansion and urges the USACE to carefully consider this question.

¹ Colliers International. Q2 2024 | Savannah Industrial Market Report. See:

<https://www.colliers.com/en/research/savannah/2024q2industrial>

² See <https://www.colliers.com/en/research/savannah/2024q1industrial>

³ See <https://www.colliers.com/en/research/savannah/2023q4industrial>

⁴ See <https://www.colliers.com/en/research/savannah/2023q3industrial>

⁵ See <https://www.colliers.com/en/research/savannah/2022q4industrial>

⁶ See Note 1.

⁷ Savannah Morning News. "Industrial Park in Bryan County empty nearly two years after groundbreaking." May 30, 2024. See:

<https://www.savannahnow.com/story/news/2024/05/30/seaport-16-trade-center-in-north-bryan-has-not-gone-vertical-yet/73773238007/>

Finally, the piecemeal permitting approach and the disproportionate wetlands impact of this latest stage should also be noted. According to the Joint Public Notice, the site has already received at least two permits to fill wetlands related to the larger construction project. This latest permitting highlights a piecemeal approach that potentially skirts full review of the entirety of the construction on site. Additionally, this round of permit application offers to build the least amount of warehouse space while disproportionately impacting the remaining wetlands on site. Combined, the previously permitted constructions will add 2,407,900 square feet of space with an impact to 9.94 acres of jurisdictional wetlands - a rate of 242,243 square feet per acre of wetlands filled. This proposed permit modification on the other hand will fill 3.42 acres of wetlands for 84,000 sq ft of space - a rate of 24,561 sq ft per acre of wetlands filled. Impacting wetlands at almost 10 times the rate is concerning, especially for such a small addition of warehouse space.

The JH Industrial Site's stated purpose does not respond to any existing need. As such, the need for this development does not outweigh the negative impact to the waters of the U.S. and the environmental and public uses it supports. The U.S. Army Corps should deny this permit application on these grounds.

2. Alternatives must be considered - specifically a 'No Action' alternative

Alternative actions must be considered in reviewing this permit modification application. Prior to any permitting decision to fill wetlands, it must conclusively determine that there are no practicable alternatives that are less damaging that would achieve the same purpose of the proposed action. Based on the overwhelming supply of vacant and under construction warehouse space, a 'no action' is the least damaging practicable alternative.

The Joint Public Notice fails to note any consideration of any alternative to the proposed expansion action. Federal regulation directs the USACE to "[e]xamine practicable alternative[s]" to the proposed action, including both a no action alternative as well as other alternative locations.⁸ The action cannot be permitted if "there is a practicable alternative...which would have less adverse impact."⁹ Based on the information included in the Joint Public Notice, his alternatives analysis appears to have not been undertaken by the USACE. If one has been conducted, that information is not shared here and not available for the public to constructively comment on. As such, ORK calls on the USACE to delay any permitting decision until fully considering alternatives to the proposed action and gives the public an opportunity to comment on that alternatives analysis.

A 'no action' alternative should be the least damaging practicable alternative to the proposed action. The applicant's stated purpose of "expan[ding] warehousing and supply-chain distribution space to service the long-term needs of businesses operating within the Port of Savannah" can currently and immediately be achieved by multiple existing projects that would fulfill this proposed action's addition of available space multiple times over. As noted above, more than 10 million square feet of warehouse and distribution space is currently built, unoccupied, and available to meet the purpose of this proposed project. Because the purpose and goals of this project are already being achieved, any additional warehouse space at the cost of 3.42 acres of jurisdictional wetlands, and likely dozens more acres of nonjurisdictional wetlands¹⁰ cannot be the least damaging practicable alternative. As such, ORK asks the U.S.

⁸ 40 CFR § 230.5(c) - as directed by 33 CFR § 323.6(a).

⁹ 40 CFR § 230.10(a).

¹⁰ See Attachment A below.

Army Corps of Engineers to consider and ultimately select the ‘no action’ alternative and to deny this permit modification as requested.

Likewise, the environmental damage that would result from this project clearly outweighs the unnecessary addition of the mere 84,000 square feet that this project proposes. Between January 2020 and November 2023, more than 800 acres of wetlands have been filled in Bryan, Chatham, and Effingham counties due to warehouse developments.¹¹ This number is almost certainly larger now, more than half a year later. In that context, the 3.42 acres of jurisdictional wetlands that will be destroyed by this project alone outweighs the nonexistent benefit from this project. But when also considering the many acres of nonjurisdictional wetlands that will also be destroyed, the harm to the environment is even worse. Wetlands provide important environmental functions, including but not limited to pollution filtration, fish and wildlife habitat, groundwater recharge, and flood control. Losing these important natural resources threatens the water quality of the Little Ogeechee River and Hardin Canal, the habitats and health of the fish and wildlife that rely directly and indirectly on these wetlands, and could lead to increased pollution-laden flooding. These major, long-term impacts to the environment outweigh any benefit that would come from adding additional warehouse space to an already-saturated market. As such, the ‘no action’ alternative is the least environmentally damaging alternative while still meeting the stated purpose and the goal of meeting warehousing and distribution needs. ORK strongly urges the Army Corps to select the ‘no action’ alternative and to deny this project.

3. Should the permit be approved, on-site mitigation should be prioritized over mitigation credits

If the U.S. Army Corps, despite the lack of need and the clear environmental damage, still chooses to permit these wetlands to be filled, ORK urges that on-site wetlands mitigation be prioritized over the use of mitigation credits.

On-site mitigation provides the best option for reducing the direct environmental impacts resulting from a project. The gold standard with any mitigation efforts is to preserve as many acres of wetlands as possible, avoiding their filling in the first place. Short of preserving all wetland, which the project, as proposed, fails to do, on-site mitigation and restoration is the next-best option. Rather than relying on mitigation credits to preserve resources in a geographically-distant location, the pollution reduction services and habitat loss resulting from wetlands fill can be directly reduced by on-site restoration projects. Likewise, mitigation focused on restoration, rehabilitation, and creation of wetlands goes a step further to add new resources to the environment rather than simply preserving already-existing resources and balancing those against the lost wetlands. On-site restoration projects can more successfully approach net-neutral wetlands impact, or even a net-positive, where the use of mitigation credits guarantees a net-loss of wetlands. ORK urges the Army Corps to prioritize wetlands preservation and on-site mitigation and restoration over relying on mitigation credits for this, and all, projects.

¹¹ Savannah Morning News. “Warehouse boom threatens coastal Georgia communities, environmental groups say.” November 6, 2023. See: <https://www.savannahnow.com/story/news/environment/2023/11/06/environmental-maps-show-how-warehouse-development-impacts-coastal-georgia/71471422007/>

See also: Attachment B, showing “Warehouse Expansion Map - Chatham County” for a visual representation.

Thank you in advance for your time and consideration; please let me know if you have any questions:
ben@ogeecheeriverkeeper.org.

Ben Kirsch, Legal Director
Ogeechee Riverkeeper

Attachment A

U.S. Fish and Wildlife Service's
National Wetlands Inventory
for the
JH Industrial Site development

Attachment B

Warehouse Expansion Map - Chatham County

Available at:

<https://savrk.maps.arcgis.com/apps/instant/nearby/index.html?appid=fe9842acff4046a49628da7c6eca4d51>

Warehouse Expansion Map - Chatham County

