

November 29, 2006

Richard W. Morgan  
U.S. Army Corps of Engineers (USACOE)  
Savannah District  
Savannah, Georgia

Carol Bernstein  
U.S. Army Corps of Engineers (USACOE)  
Savannah District  
Savannah, Georgia

**REFERENCE; Bush's Mills**

Dear Mr. Morgan,

This letter (e-mail) is being written by the Altamaha Riverkeeper, Inc., (ARK). A hard copy of this letter will follow in the regular U.S. Mail. We are requesting the assistance of the USACOE in a matter at the above referenced site located partially in Bleckley County, Georgia and partially in Pulaski County, Georgia. The above site is located on County Line Road that leads to both Bleckley and Pulaski Counties.

The ARK is specifically requesting your assistance in a matter involving an ongoing logging operation in and around the Bush's Mills area and its tributaries that may have been required to obtain Clean Water Act Section "404" permits prior to harvesting tree's from a water body.

The ARK has reason to believe this is not a normal, established, ongoing silvicultural activity. A little background of this site is as follows; the name of the parent real estate company that owns this site is Georgia Estate Homes (Hawkinsville, Georgia) with telephone numbers listed in Florida and Georgia. The Florida number is 305-828-7000 and the Georgia number is 478-783-0544.

The ARK believes the local registered agent for the Georgia Estate Homes realtor may be **Chandler McDougald, Hub City Realty, 544 Broad Street, P.O. Box 456, Hawkinsville, Ga. 31036 (Telephone 478-783-0544)**. Georgia Estate Homes has their e-mail listed as ([sales@georgiaestatehomes.com](mailto:sales@georgiaestatehomes.com)).

The name of the new sub division is Royal Palms 2 that will be in Bleckley County. In the Georgia Estate Homes brochure they claim to be in contact with the USACOE to provide a time line and cost estimates to build their lake. In this brochure Georgia Estate Homes claims to be proceeding in a feasibility study to build a 70 acre lake on this site.

Mr. Morgan, several years ago the dam on Bush's Mills burst due to excessive flood waters. The dam is actually County Line Road with one side of the mill pond being on the Pulaski County side and the other side being in Bleckley County. At the time the dam burst there were full growth cypress and other wetland tree species on site. For whatever reason Bleckley County public works chose not to repair the dam. Of course after that nature took control and the beavers built a substantial dam that with held water for the trees on site. The mill pond retained that status until recently when I have been told that the beaver dam was dynamited, thereby draining Bush's Mills.

It is my understanding that prior to the beaver dam removal a major logging operation was already underway. Attached to this e-mail are some aerial photos taken of this site by me on 11-25-06. My photos tend to indicate there may be major concerns with rutting and too many skidder trails being used for this operation. It should also be noted that these skidder trails appear to be where water bodies are standing and in some instances the skidder trails may actually be crossing on site water bodies.

There appears to be at least one improper stream crossing on this site. My aerial photos indicate there may have been logs layed down and dirt placed on top of the logs to make a stream crossing. This type log crossing impedes flow and the migration of aquatic species inhabiting this water body.

Many of the skidder trails on this site appear to have caused deep rutting due to heavy equipment driving back and forth bringing logs to the loading deck. *Deep rutting will alter the natural flows and hydrology of this ecosystem as well as increase the movement of previously areas of stabilized sediment.*

The ARK believes that much of the deep rutting, skidder trails crossing water bodies and possible improper stream crossings is not only a violation of Georgia's Best Management Practices for harvesting timber in Georgia, but may also violate the Clean Water Act. We also believe the person(s) responsible for this site should have obtained Clean Water Act Section "404" Permits prior to harvesting timber from this site.

### **Georgia's Best Management Practices For Forestry**

#### **Page 19- 3.3.1 *Clean water Act Provisions and Requirements for Stream Crossings***

The Federal Clean Water Act, Section 404 (40 CFR Part 232.3), exempts normal, established, ongoing *silvicultural* activities from the permitting process for discharges of dredged or fill material in jurisdictional *wetlands*. However, fifteen (15) baseline provisions for forest road construction and maintenance in and across *waters of the U.S.* (lakes, rivers, *perennial* and *intermittent streams*, *wetlands*, *sloughs* and natural ponds) are mandated to qualify for the forest road exemption:

- 1- Permanent roads, temporary access roads and *skid trails* (all for forestry) in *waters of the U.S.* shall be held to the minimum feasible number, width and total length consistent with the purpose of specific *silvicultural* operation, and local topographic and climatic conditions;

- 2- All roads, temporary or permanent, shall be located sufficiently far from streams or other water bodies (except for portions of such roads that must cross water bodies) to minimize discharges of dredged or fill material into *waters of the U.S.*;
- 3- The road fill shall be bridged, culverted or otherwise designed to prevent the restriction of expected flood flows;
- 4- The fill shall be properly stabilized and maintained during and following construction to prevent *erosion*;
- 5- Discharges of dredged or fill material into *waters of the U.S.* to construct a road fill shall be made in a manner that minimizes the encroachment of trucks, tractor, bulldozers or other heavy equipment within *waters of the U.S.* (including adjacent wetlands) that lie outside the lateral boundaries of the fill its self;
- 6- In designing, constructing and maintaining roads, vegetative disturbances in *the waters of the U.S.* shall be kept to a minimum;
- 7- The design, construction and maintenance of the road crossing shall not disturb the migration or other movement of those species of aquatic life inhabiting the water body;
- 8- Borrow material shall be taken from upland sources wherever feasible;
- 9- The discharges shall not take or jeopardize the continued existence of a threatened or endangered species as defined under the Endangered Species Act, or adversely modify or destroy the critical habitat of such species;
- 10- Discharges into breeding and nesting areas for waterfowl, spawning areas, and *wetlands* shall be avoided if less harmful alternatives exist;
- 11- The discharge shall not be located in the proximity of a public water supply intake;
- 12- The discharge shall not occur in areas of concentrated shellfish production;
- 13- The discharge shall not occur in a component of the National Wild and Scenic River System;
- 14- The discharge of material shall consist of suitable material free from toxic *pollutants* in toxic amounts; and,
- 15- All temporary fills shall be removed in their entirety and the area restored to its original elevation.

The ARK does not believe this site is a normal, established, ongoing *silvicultural* activity and therefore should not be entitled to any of the exemptions that apply to ***normal, established, ongoing silvicultural activities***. The Georgia Estate Homes realty company so states in their own published literature that this site is to be known as a sub division of new homes named ***Royal Palms 2 with the intent of a new 70 acre lake***.

The ARK believes that this logging operation should have been permitted under the Clean Water Act Section “404” permitting system prior to the beginning of the harvesting of timber from the Bush’s Mills site. Therefore we believe that the person(s) responsible for this site may be in violation of;

**3.3.1 Clean water Act Provisions and requirements for Stream Crossings as follows;  
Paragraphs 1, 2, 3, 4, 5, 6, 7 and 10 of the above Clean Water Act Mandated Requirements.**

We believe all of the above should have been permitted under the Clean Water Act Section “404” Permitting system prior to the beginning of harvesting timber, therefore it appears that the

person(s) responsible for this site may be in violation of all the above *Clean Water Act Mandated Requirements*.

Mr. Morgan, the ARK is requesting that the USACOE commence an investigation of this site as soon as is feasibly possible to determine if in fact the ARK is correct in its belief's that this logging operation should have been permitted under the Clean Water Act Section "404" Permitting System prior to the harvesting of timber from this site.

We also request that you investigate this site to determine if in fact there are ongoing Section "404" violations as we suggested above.

The ARK also requests that the USACOE disallow any structure on this site that will create a lake for a minimum of 2-3 years. We believe we are justified in making this request in order for the cypress to regenerate new sprouts to resume growth again. If Bush's Mills is allowed to be filled with water prior to the regeneration of new cypress growth the characteristics of this ancient (historic) body of water will be lost forever.

The ARK would also like to request that if the person(s) responsible for this site are found to be in violation of the Clean Water Act we respectfully ask that they be penalized accordingly.

Thank you in advance for your assistance in this very important matter.

James Holland,  
Altamaha Riverkeeper

CC:

Tom Welborn, Chief EPA Region 4, Atlanta, Ga.

Bill Sapp, Esquire, EPA, Region 4, Atlanta, Ga.

Carol Couch, Director, Georgia EPD, Atlanta, Ga.

Ken Stewart, Director, Georgia Forestry Commission

Donald D.J. Stack, Esquire, Stack and Associates, Atlanta, Ga.

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