

**FILED**

August 23, 2006

Charles R. Fulbruge III  
Clerk

**UNITED STATES COURT OF APPEALS  
FIFTH CIRCUIT**

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No. 05-60243

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GREATER GULFPORT PROPERTIES, LLC,

Plaintiff - Appellant,

versus

UNITED STATES ARMY CORPS OF ENGINEERS,

Defendant - Appellee.

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Appeal from the United States District Court  
For the Southern District of Mississippi  
USDC 1:04-CV-571

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Before SMITH, GARZA, and CLEMENT, Circuit Judges.

PER CURIAM:\*

We affirm the district court's dismissal of the complaint. The district court lacked subject matter jurisdiction to review the Army Corps of Engineers' pre-enforcement jurisdictional determination made pursuant to 33 C.F.R. § 320.1(a)(6). *See S. Pines Assocs. v. United States*, 912 F.2d 713 (4th Cir. 1990) (judicial review of compliance orders issued pursuant to the Clean Water

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\* Pursuant to 5TH CIR. R. 47.5, the Court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

Act not available); *Comm'rs of Pub. Works of City of Charleston v. United States*, 30 F.3d 129 (4th Cir. 1994) (table decision) (pre-enforcement judicial review of Corps' jurisdictional determinations under 33 C.F.R. § 320.1(a)(6) not available); *St. Andrews Park, Inc. v. United States Dep't of the Army Corps of Eng'rs*, 314 F.Supp.2d 1238, 1244-45 (S.D. Fla. 2004) (determination that a wetland is subject to the Clean Water Act is not a final agency action).

AFFIRMED.