



DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

REPLY TO

December 10, 2009

Regulatory Branch

SUBJECT: Determination of No Jurisdiction for Application No. 2009-01133

Mr. Ron Cocco
Clark and Post Architects
6125 South Broadway
Lorain, Ohio 44053

Dear Mr. Cocco:

I am writing to you in regard to your recent request to verify the wetland delineation performed at the UAW property, French Creek Road, Sheffield Township, Lorain County, Ohio.

Section 404 of the Clean Water Act establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

Based upon our evaluation of the subject project site, we have determined that there is no clear surface water connection or ecological continuum between the wetlands A (0.106 acres), B (0.005 acres), and C (0.005 acres) on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the Clean Water Act. Accordingly, you do not need Department of the Army authorization to commence work in these areas.

This determination will remain valid for a period of 5 years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new delineation may be required. In addition, this delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

I encourage you to contact the appropriate state and local governmental officials to insure that the proposed work complies with their requirements.

Regulatory Branch

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Finally, this letter contains an approved jurisdictional determination for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Ms. Pauline Thorndike, Regulatory Review Officer
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10032
Cincinnati, OH 45202-3222
Phone: 513-684-6212

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by January 25, 2009.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

A copy of this letter has been sent to Ohio EPA and Laura Sayre, Flickinger Wetland Services.

Questions pertaining to this matter should be directed to me at (716) 879-4240, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: shaina.r.souder@usace.army.mil

Sincerely,

Shaina R. Souder
Biologist

Enclosures