



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, HUNTINGTON DISTRICT
502 8TH STREET
HUNTINGTON, WV 25701

March 4, 2021

Regulatory Division
North Branch
LRH-2021-80-SCR

APPROVED JURISDICTIONAL DETERMINATION

Mr. Jim Ohlin
Romanelli & Hughes Building Company
148 West Schrock Road
Westerville, Ohio 43081

Dear Mr. Ohlin:

I refer to the *Derstine Property, Investigation of Waters of the United States* dated January 15, 2021 and submitted on your behalf by EMH&T, Inc. You have requested an approved jurisdictional determination (JD) for the aquatic resources located on the approximate 21-acre site. The property is located south of Big Walnut Road and east of Worthington Road in Genoa Township, Delaware County, Ohio at approximately 40.181281 latitude, -82.924346 longitude. On-site waters flow to an unnamed tributary to the Westerville Reservoir, an indirect tributary to the Scioto River, a navigable water of the United States. Your JD request has been assigned the following file number: LRH-2021-80-SCR. Please reference this number on all future correspondence related to this JD request.

The United States Army Corps of Engineers' (Corps) authority to regulate waters of the United States is based on the definitions and limits of jurisdiction contained in 33 CFR 328, including the amendment to 33 CFR 328.3 (85 Federal Register 22250), and 33 CFR 329. Section 404 of the Clean Water Act (Section 404) requires a Department of the Army (DA) permit be obtained prior to the discharge of dredged or fill material into waters of the United States, including wetlands. Section 10 of the Rivers and Harbors Act of 1899 requires a DA permit be obtained for any work in, on, over or under navigable water.

The Navigable Waters Protection Rule, which became effective on June 22, 2020, was followed in this verification of Section 404 jurisdiction for the features located within the approved JD boundary. A total of one (1) ditch, one (1) open water feature, two (2) swales, and six (6) wetlands were delineated within the approved JD area of interest as depicted on the enclosed map titled "Delineation Map" submitted with the JD report dated January 15, 2021. These aquatic resources are also listed in the enclosed Table 1.

It has been determined that Ditch 1 was constructed entirely in uplands, does not relocate a tributary, was not constructed in a tributary, was not constructed in an adjacent wetland, and is not a jurisdictional water of the United States per 33 CFR 328.3(b)(5). It has been determined that Pond 1 was constructed entirely in uplands, is not an impoundment of an (a)(1)-(a)(3) water, and is not a jurisdictional water of the United States per 33 CFR 328.3(b)(8). It has been determined that Swales 1-2 are linear features constructed in uplands that exhibit ephemeral flow and are not waters of the United States per 33 CFR 328.3(b)(3). It has been determined that Wetlands A-F do not meet the definition of an adjacent wetland (33 CFR 328.3(c)(1)(i)-(iv)) and are not considered waters of the United States per 33 CFR 328.3(b)(1). However, you should contact the Ohio Environmental Protection Agency, Division of Surface Water, at (614) 664-2001 to determine state permit requirements.

This jurisdictional verification is valid for a period of five (5) years from the date of this letter unless new information warrants revision of the delineation prior to the expiration date. This letter contains an approved JD for the subject site. 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 this determination you must submit a completed RFA form to the Great Lakes and Ohio River Division Office at the following address:

Appeal Review Officer
U.S. Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street Room 10-714
Cincinnati, OH 45202-3222
TEL (513) 684-7261; FAX (513) 684-2460

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 CFR 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 **May 4, 2021**. **It is not necessary to submit an RFA form to the Division office if you do not object to the determination in this letter.**

The determination included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This JD may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

A copy of this letter will be provided to the Ohio Environmental Protection Agency at Lazarus Government Building, Post Office Box 1049 Columbus, Ohio 43216-3669 and your agent, Eric Nagy with EMH&T, Inc. If you have any questions concerning the above, please contact Kayla Osborne of the North Branch at 304-399-5850, by mail at the above address, or by email at kayla.n.osborne@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read "Laurie Moore".

Laurie Moore
Regulatory Project Manager
North Branch

Enclosures

cc:

Eric Nagy, EMH&T, Inc. (via email)

Ohio Environmental Protection Agency (via email)

Table 1. Non-jurisdictional features associated with the Derstine Property Approved JD, LRH-2021-80-SCR					
Aquatic Resources	Latitude & Longitude (°N) (°W)		Cowardin Class	Linear feet and/or Acres in review area	Regulatory Authority
Ditch 1	40.18093	-82.92347	Ephemeral	228 linear feet	None; Excluded under (b)(5)
Pond 1	40.18057	-82.92324	Open Water	0.25 acre	None; Excluded under (b)(8)
Swale 1	40.18072	-82.92530	Ephemeral	585 linear feet	None; Excluded under (b)(3)
Swale 2	40.18041	-82.92354	Ephemeral	70 linear feet	None; Excluded under (b)(3)
Wetland A	40.18060	-82.92444	Emergent	0.20 acre	None; Excluded under (b)(1)
	40.18049	-82.92425	Forested	0.70 acre	
Wetland B	40.18048	-82.92348	Emergent	0.09 acre	None; Excluded under (b)(1)
Wetland C	40.18097	-82.92274	Forested	0.07 acre	None; Excluded under (b)(1)
Wetland D	40.18037	-82.92327	Forested	0.01 acre	None; Excluded under (b)(1)
Wetland E	40.18081	-82.92546	Forested	0.12 acre	None; Excluded under (b)(1)
Wetland F	40.18172	-82.92265	Emergent	0.03 acre	None; Excluded under (b)(1)