



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
HUNTINGTON DISTRICT, CORPS OF ENGINEERS
502 EIGHTH STREET
HUNTINGTON, WEST VIRGINIA 25701-2070

OCT 2 2013

Regulatory Division
South/Transportation Branch
LRH-2013-00808-OTT – Schlicker Ditch
LUC-475-8.03, PID 88252

Mr. Timothy M. Hill
Ohio Department of Transportation
Office of Environmental Services
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

Dear Mr. Hill:

This letter is in response to the Level 2 Ecological Survey Report (ESR) prepared by the Mannik & Smith Group received in this office on August 20, 2013. The information provided included six (6) potential jurisdictional waters identified as Schlicker Ditch, Hill Ditch, Haefner Ditch; and Wetlands A, B, and C within an approximate 328-acre study area located in the City of Toledo, Lucas County, Ohio.

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

You have requested we provide a preliminary jurisdictional determination (PJD) for the aquatic resources within the proposed study area. The attached Figure 5 correctly describes waters within the study area. Based on a review of the information provided, a site visit conducted on September 23, 2013, and other information available to us, Schlicker Ditch (214 linear feet), Hill Ditch (355 linear feet), Haefner Ditch (350 linear feet), Wetland A (3.55 acres), Wetland B (3.85 acres), and Wetland C (0.13 acre) are located within the study area. This office has determined the streams and wetlands **may** be jurisdictional waters of the U.S. This determination has been made in accordance with the Regulatory Guidance Letter for Jurisdictional Determinations issued by the Corps on June 26, 2008 (RGL No. 08-02). As indicated in the guidance, this PJD is non-binding and cannot be appealed (33 C.F.R. 331.2) and only provides a written indication that waters of the U.S. may be present on-site.

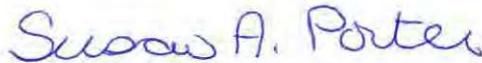
You have declined to exercise the option to obtain an approved jurisdictional determination in this instance and at this time. For the purposes of the determination of impacts, compensatory mitigation, and other resource protection measures for activities that require authorization from this office, the streams and wetlands described in the attached PJD will be evaluated as if they are waters of the U.S.

Attached please find two copies of the PJD. If you agree with the findings of this PJD and understand your options regarding the same, please sign and date one copy of the form and return it to this office within 30 days of receipt of this letter. You should submit the signed copy to the following address:

Mr. Tim Long (LRH-2013-00808-OTT)
U.S. Army Corps of Engineers - Huntington District
Building 10/ Section 10
PO Box 3990
Columbus, OH 43218-3990

If you have any questions concerning the above information, please contact Tim Long at 614-692-4660 or by email at Timothy.M.Long@usace.army.mil.

Sincerely,



Susan A. Porter
Chief, South/Transportation Branch

Enclosures

Copy Furnished w/enclosure via email:

Joni Lung
Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, OH 43216-1049
Joni.Lung@epa.state.oh.us

Mike Pettegrew
Ohio Department of Transportation
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223
Mike.Pettegrew@dot.state.oh.us

Adrienne Earley
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PRELIMINARY JURISDICTIONAL DETERMINATION FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD): 2 October 2013

B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:

Ohio Department of Transportation
1980 West Broad Street, Mail Stop 4170
Columbus, Ohio 43223

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Huntington District, LUC-475-8.03 PID 88252 _2013-00808-OTT

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

State: Ohio
County: Lucas
City: Toledo
Center coordinates of site: 41.667 North, 83.694 West
Name of nearest waterbody: Ottawa River

Identify (estimate) amount of waters in the review area:

Potentially Jurisdictional Streams: There are three (3) perennial streams with a cumulative total of 919 linear feet within the approximate 328-acre review area. Refer to the attached table and maps for a detailed stream summary.

Potentially Jurisdictional Wetlands: There are three (3) wetlands with a cumulative total of 7.53 acres in the review area. These wetlands appear to have continuous surface or subsurface connections to waters of the United States (U.S.). Refer to the attached table and maps for a detailed wetland summary.

Name of any water bodies on the site that have been identified as Section 10 waters:

None

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination: Date: 27 September 2013
- Field Determination: Date(s): 23 September 2013

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring “pre-construction notification” (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant’s acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there “*may be*” waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply - checked items should be included in case file and, where checked and requested, appropriately reference sources below):

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Refer to ODOT submitted Level 2 Ecological Survey Report (ESR) for LUC-475-8.03 PID 88252, received on 20 August 2013.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s): retrieved from Appendix 1 of Level 2 ESR.
- USDA Natural Resources Conservation Service Soil Survey: retrieved from ORM database NRCS Soil Survey Geographic layer. Accessed 27 September 2013.
- National wetlands inventory map(s): retrieved from ORM database USFWS Wetland layer. Accessed 27 September 2013.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:.
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Level 2 ESR for LUC-475-8.03 PID 88252, Appendix 1 (dates unknown).
or Other (Name & Date): Level 2 ESR for LUC-475-8.03 PID 88252, Appendix 2 (dates unknown).
- Previous determination(s).
- Other information (please specify):

See Attached Tables 1-2 and Figure 5

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of
Regulatory Project Manager
(REQUIRED)

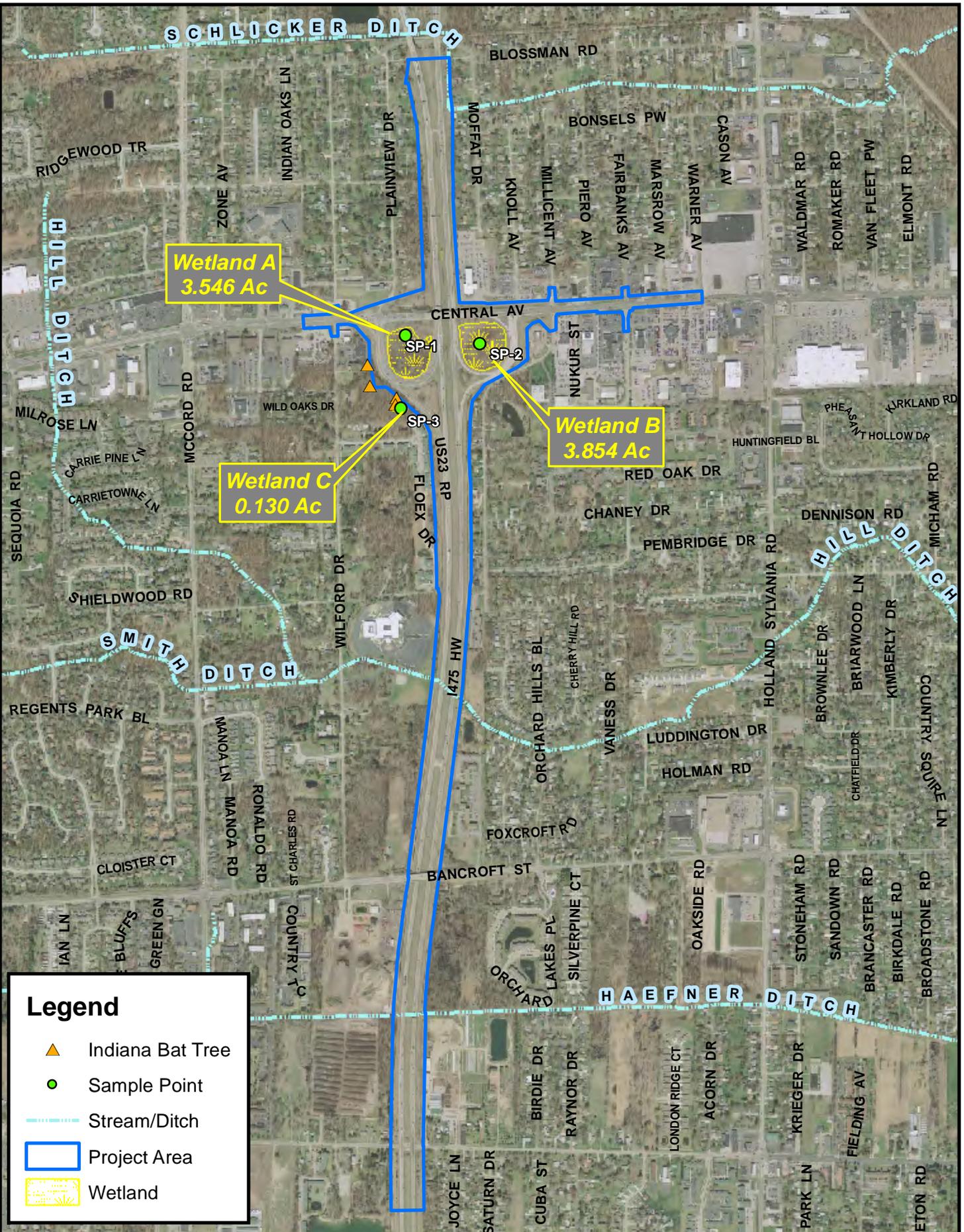
Signature and date of
person requesting preliminary JD
(REQUIRED, unless obtaining the
signature is impracticable)

**Table 1 – Potentially Jurisdictional Stream Summary
2013-00808-OTT: LUC-475-8.03 PID 88252**

Stream ID	Flow Regime	Linear Feet
Schlicker Ditch	Perennial	214
Hill Ditch	Perennial	355
Haefner Ditch	Perennial	350
Total:		919

**Table 2 – Potentially Jurisdictional Wetland Summary
2013-00808-OTT: LUC-475-8.03 PID 88252**

Wetland ID	Cowardin Class	Size in Acre(s)
A	PEM / PSS	3.55
B	PEM	3.85
C	PEM / PSS / PFO	0.13
Total:		7.53



Legend

- Indiana Bat Tree
- Sample Point
- Stream/Ditch
- Project Area
- Wetland

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**Figure 5: Ecological Resources
 I-475/US 20 Interchange Upgrade
 (PID 88252)
 Sylvania Township, Lucas County, Ohio**

Notes
 The photography, dated April 2010, is provided by Anita Lopez, Lucas County Auditor, as part of the Lucas county GIS.

1,000 500 0 1,000 Feet