



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

JUL 10 2015

REPLY TO
ATTENTION OF:

Regulatory Division
North Branch
LRH-2004-657-SCR-Unnnamed Tributary Little Walnut Creek

APPROVED AND PRELIMINARY JURISDICTIONAL DETERMINATIONS

Mr. Steve Peck
Pulte Homes
5000 Tuttle Crossing Blvd.
Dublin, Ohio 43016

Dear Mr. Peck:

I refer to the *Wetland Delineation and Waters Report* (report) dated May 15, 2015 and prepared on your behalf by American StructurePoint, Inc. requesting a preliminary jurisdictional determination (JD) for the potentially jurisdictional aquatic resources and an approved JD for the potentially non-jurisdictional features on the approximately 18 acre Sunbury Meadows Section 7 parcel (site) located north of Sunbury Meadows Drive in Sunbury, Delaware County, Ohio. This project has been assigned the following file number: LRH-2004-657-SCR-Unnnamed Tributary Little Walnut Creek. Please include this file number on all future correspondence related to this project.

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 and 33 CFR 329. Section 404 of the Clean Water Act requires a Department of the Army (DA) permit be obtained prior to discharging 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 a navigable water.

Preliminary Jurisdictional Determination

Based on a review of the report, two streams (Streams 1 and 2) totaling 1,699 linear feet and seven wetlands (Wetlands A – G) totaling 1.584 acres are present within the study area and may be waters of the United States in accordance with the Regulatory Guidance Letter for JDs issued by the Corps on June 26, 2008 (Regulatory Guidance Letter No. 08-02). As indicated in the guidance, this Preliminary JD is non-binding and cannot be appealed (33 C.F.R. 331.2), and only provides a written indication that waters of the United States, including wetlands, may be present on-site.

You have declined to exercise the option to obtain an approved JD in this instance and at this time for the above aquatic resources. However, for the purposes of the determination of impacts, compensatory mitigation, and other resource protection measures for activities that require authorization from this office, the above aquatic resources will be evaluated as if they are waters of the United States.

Enclosed please find two copies of the Preliminary JD form. If you agree with the findings of this Preliminary JD and understand your options regarding the same, please sign and date one copy of the Preliminary JD 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:

United States Army Corps of Engineers
Huntington District
Attn: North Branch
502 Eighth Street
Huntington, West Virginia 25701.

Approved Jurisdictional Determination

Our December 2, 2008 headquarters guidance entitled *Clean Water Act Jurisdiction Following the U.S. Supreme Court's Decision in Rapanos v. United States & Carabell v. United States* was followed in the final verification of Clean Water Act jurisdiction. Based upon a review of the provided information and other information available to us, this office has determined the site contains one stormwater detention basin (0.73 acre). The stormwater detention basin is a non-jurisdictional feature that was constructed in uplands pursuant to stormwater management criteria for Section 402 of the Clean Water Act (33 CFR 328.3(a)) and serves as a hydrologic connection to the downstream tributary. If there are any changes in use to the stormwater detention basin, the area may be considered a water of the United States.

This jurisdictional verification is valid for a period of five 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 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:

Appeals Review Officer
Great Lakes and Ohio River Division
550 Main Street RM 10524
Cincinnati, Ohio 45202-3222
Phone: (513) 684-2699
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 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 _____. **It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.**

This determination has been conducted to identify the limits of the Corps' Clean Water Act jurisdiction for the particular site identified in this request. This determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

Please be aware that this site, Section 7 of the Sunbury Meadows Subdivision, was part of the original Sunbury Meadows Subdivision that was authorized under Nationwide Permit Number (NWP) #39 under the January 15, 2002 Federal Register, Final Notice of Issuance of Nationwide Permits (67 FR 2020) for the discharge of fill material into 0.39 acre of wetland and 200 linear feet of stream. All impacts to waters of the United States in association with a single and complete project must be reviewed cumulatively by this office. Therefore, should plans be developed in the future that would be dependent upon access provided by the existing infrastructure you must ensure a pre-construction notification, which identifies proposed impacts to waters of the United States associated with any expansion areas, is submitted to this office for review.

If you have any questions concerning the above information or would like to request a pre-application meeting on the proposed residential development, please contact Ms. Lee A. Robinette of the North Branch at 304-399-5930, at the above address or by email at lee.a.robinette@usace.army.mil.

Sincerely,



Teresa Spagna
Chief, North Branch

Enclosures