



REPLY TO
ATTENTION OF

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

March 12, 2015

Regulatory Division
Energy Resource Branch
LRH-2014-00944-TUS-Brushy Fork

Mr. Mike Reed
The East Ohio Gas Company
320 Springside Drive, Suite 320
Akron, Ohio 44333

Dear Mr. Reed:

I refer to your *Wetland Delineation Report* submitted within the *East Ohio Gas Company, Nationwide Permit 12 Pre-Construction Notification Western Access II* Project, with final wetland delineation revisions received in our office on March 6, 2015. The project area is located in Union, Mill, Monroe, Franklin, Stock, Nottingham and Cadiz Townships, in Tuscarawas and Harrison Counties, Ohio. On-site waters flow into Little Stillwater Creek, McFadden Run, Brushy Fork, Tappen Lake, and Clendening Lake. The aforementioned listed streams and lakes all are tributaries to the Tuscarawas River, a traditional navigable water of the United States (U.S.). This project has been assigned the following file number: LRH-2014-00944-TUS-Brusy Fork. Please reference this file number on all future correspondence related to this project.

The U.S. Corps of Engineers (Corps) authority to regulate waters of the U.S. is based, in part, 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 the discharge of 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.

Based on a review of the above referenced information, and other data available to us, this office has determined that 83 stream channels totaling 15,335 linear feet (lf), and 63 wetlands (palustrine emergent (PEM) wetlands, palustrine scrub/shrub (PSS) wetlands, and palustrine forested (PFO) wetlands), totaling 11.70 acres, are located within the PJD Boundary. Of the 15,335 lf of stream channel, 3,725 lf are classified as perennial, 7,157 lf are classified as intermittent, and 4,453 lf classified as ephemeral. Of the 11.70 acres of wetland, 9.19 acres are classified as PEM, 2.49 acres are classified as PSS, and 0.015 acre are classified as PFO. Refer to the enclosed *PJD Form and Site Map of Wetlands and Other Water Resources. Western Access II* for a detailed summary of on-site waters.

This office has determined that these waters **may** be jurisdictional waters of the U.S. 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., including wetlands, 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 area within the PJD boundary. 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 Form 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 Audrey.M.Richter@usace.army.mil or to the following address:

U.S. Army Corps of Engineers
Huntington District, Regulatory Division
Attn: Ms. Audrey Richter (LRH-2014-00944)
502 8th Street
Huntington, West Virginia 25701

This determination has been conducted to identify the limits of the Corps CWA jurisdiction for the particular site identified in this request. Please be advised if your proposed project is unable to avoid the waters of the U.S., you must obtain written authorization from this office prior to the discharge of dredged and/or fill material into these aquatic resources. If you have any questions concerning the above information, please contact Ms. Audrey Richter at (304) 399-5257 or by email at Audrey.M.Richter@usace.army.mil.

Sincerely,



Michael E. Hatten
Chief, Energy Resource Branch

Enclosures

Copies Furnished: via email

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