



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

July 8, 2026

Regulatory Division

SUBJECT: Approved Jurisdictional Determination and Delineation Verification for
Department of the Army No. LRB-2000-00680

Young Development, Inc.
Attn: Bryan Young
1120 Bullis Road
Elma, New York 14059
Email: byoung@youngdevelopmentinc.com

Dear Mr. Young:

I have reviewed your submittal and request for an approved jurisdictional determination (JD) for a 24.59-acre review area located 2601 Wehrle Drive, in the Town of Amherst, Erie County, New York (Latitude 42.959130 and Longitude -78.711570) (Sheet 1-4 of 4).

This office has determined that the location and extent of all aquatic resources shown on the attached maps (Sheet 3-4 of 4) accurately represents the review area conditions.

Enclosed is an approved JD which verifies the limits of waters of the U.S. within the review area as depicted on Sheet 3-4 of 4. This approved JD will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the approved JD before the expiration date. At the end of this period, a new aquatic resource delineation will be required to support any request for a new JD.

This office has determined that the following aquatic resources are not waters of the U.S. as noted on the attached Memorandum for Record: LRB-2000-00680 Wetlands 1, 2, 3, 4, 5. Therefore, these aquatic resources are not regulated under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act of 1899. Department of the Army authorization is not required if you propose work, installation of structures, or a discharge of dredged or fill material in, over, or under these aquatic resource(s).

Further, the delineation 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 review area identified in this request. This delineation and/or jurisdictional 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 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.

If you object to this determination, you may request an administrative appeal under U.S. Army Corps of Engineers (USACE) regulations at 33 CFR Part 331. Enclosed you will find a dated ENG Form 6287 ("Notification of Administrative Appeal Options and Process and Request for Appeal"). If you request to appeal the above JD, you must submit a completed ENG Form 6287 within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Suzanne Chubb
Regulatory Program Manager
USACE, Great Lakes and Ohio River Division
550 Main Street, Room 10-780, CELRD-PD-O
Cincinnati, Ohio 45202-3222
Phone: (513) 218-1243
e-mail: suzanne.l.chubb@usace.army.mil

In order for an administrative appeal to be accepted by the USACE, the USACE 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 attached ENG Form 6287. Should you decide to submit an RFA form, it must be received at the above address by **September 7, 2026**.

It is not necessary to submit ENG Form 6287 to the Division Office if you do not object to the approved jurisdiction determination in this letter.

A copy of this letter has been sent to New York State Department of Environmental Conservation and your agent, Mr. Scott Livingstone from SJL Wetlands, LLC.

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 Regulatory Branch, 478 Main Street, Buffalo, New York, 14202 or by e-mail at: shaina.r.souder@usace.army.mil.

Sincerely,



Shaina Souder
Biologist

Enclosures



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, BUFFALO DISTRICT
478 MAIN STREET
BUFFALO, NEW YORK 14202-3278

CELRB-ORR

July 8, 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ LRB-2000-00680 (MFR 1 of 1)²

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.³ AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.⁴

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁵ the 2023 Rule as amended,

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).

³ 33 CFR 331.2.

⁴ Regulatory Guidance Letter 05-02.

⁵ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CELRB-ORR

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), LRB-2000-00680

as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

Name of Aquatic Resource	Jurisdictional or Non-Jurisdictional	Section 404/Section 10
LRB-2000-00680 Wetland 1	Non-Jurisdictional	None
LRB-2000-00680 Wetland 2	Non-Jurisdictional	None
LRB-2000-00680 Wetland 3	Non-Jurisdictional	None
LRB-2000-00680 Wetland 4	Non-Jurisdictional	None
LRB-2000-00680 Wetland 5	Non-Jurisdictional	None

2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023))
- c. *Sackett v. EPA*, 598 U.S. 651, 143 S. Ct. 1322 (2023)
- d. “Memorandum to the field between the Department of the Army, U.S. Army Corps of Engineers, and the U.S. Environmental Protection Agency Concerning the Proper Implementation of “Continuous Surface Connection” Under the Definition of “Waters of the United States” Under the Clean Water Act,” dated March 12, 2025.

3. REVIEW AREA. A 24.59-acre review area located 2601 Wehrle Drive, in the Town of Amherst, Erie County, New York (Latitude 42.959130 and Longitude -78.711570). The area consists of successional old filled area and old field that is maintained through mowing. Commercial development surrounds the review area to the north, east and west, and Wehrle Drive borders its southern extent. See attached map sheets 1-4 of 4).

An aquatic resource delineation was conducted by SJL Wetlands, LLC on August 26, 2025. An U.S. Army Corps of Engineers (USACE) site visit did not occur because information provided in association with an in-office resource review is sufficient to make a Jurisdictional Determination(JD).

A search of the administrative record shows that other actions existed for this parcel:

- An unauthorized activity occurred during 2006.
- An approved JD was finalized on January 22, 2021 under the Navigable Waters Protection Rule.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. *N/A* – none of the aquatic resources documented on this AJD MFR were determined to connect to a TNW, Interstate Water, or the Territorial Seas.
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. *N/A* – none of the aquatic resources have a flow path to a TNW, Interstate Water, or the Territorial Seas.
6. SECTION 10 JURISDICTIONAL WATERS⁶: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁷ *N/A*.
- 7.
8. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative

⁶ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁷ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

- a. Traditional Navigable Waters (TNWs) (a)(1)(i): *N/A*— none of the aquatic resources (ARs) documented on this MFR meet the definition of a paragraph (a)(1)(i) water.
Wetlands 1-5 do not meet the definition of a paragraph (a)(1)(i) Traditional Navigable Water (i.e., are not currently used, was not used in the past, and is not susceptible to use in interstate or foreign commerce; and is not subject to the ebb and flow of the tide).
- b. The Territorial Seas (a)(1)(ii): *N/A* - none of the ARs documented on this MFR meet the definition of a paragraph (a)(1)(ii) water. Wetlands 1-5 are not a paragraph (a)(1)(ii) territorial sea (i.e., is not part of the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters and extending seaward a distance of three miles).
- c. Interstate Waters (a)(1)(iii): *N/A* – none of the ARs documented on this MFR meet the definition of a paragraph (a)(1)(iii) water. Wetlands 1-5 are not a paragraph (a)(1)(iii) interstate water. The wetlands/waters do not cross or serve as a state line and as per Sackett, paragraph (a)(2) interstate waters do not include wetlands.
- d. Impoundments (a)(2): *N/A*— none of the ARs documented on this MFR meet the definition of a paragraph (a)(2) water. Wetlands 1-5 are not paragraph (a)(2) impoundments (are not an impoundment created by impounding one of the “waters of United States” that was jurisdictional under the Amended 2023 Rule’s definition at the time the impoundment was created; are not an impoundment of a water that at the time of assessment met the definition of “waters of the United States” under paragraph (a)(1), (a)(3), or (a)(4) of the Amended 2023 Rule, regardless of the water’s jurisdictional status at the time the impoundment was created).
- e. Tributaries (a)(3): *N/A* – none of the ARs documented on this MFR meet the definition of a paragraph (a)(3) water. Wetlands 1-5 because they are wetlands (i.e., is not a natural, man-altered, or man-made water body that flows directly or indirectly into (a)(1) water or (a)(2) impoundment). Wetlands 1-5 are not a paragraph (a)(3) tributary because they do not meet the relative permanent standard.

- f. Adjacent Wetlands (a)(4): *N/A*— none of the ARs documented on this MFR meet the definition of a paragraph (a)(4) water. Wetlands 1-5 do not abut another water of the U.S. (i.e. TNW, interstate water, jurisdictional impoundment, jurisdictional tributary, or the territorial seas).
- g. Additional Waters (a)(5): *N/A* – none of the ARs documented on this MFR meet the definition of a paragraph (a)(5) water. Wetlands 1-5 are not paragraph (a)(5) waters as it is not a relatively permanent intrastate lake or a pond with abutting a paragraph (a)(1) water or tributary that is relatively permanent. Wetlands 1-5 do not have a continuous surface connection to another water of the U.S. (i.e., do not abut another water of the U.S.).

9. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁸ *N/A*.
- b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).
 - i. LRB-2000-00680 Wetlands 1, 2, 3, 4, and 5 are wetlands located within the review area that were determined to be wetlands that are non-adjacent, with no Continuous Surface Connection (CSC) to a TNW, the territorial seas, interstate water, jurisdictional relatively permanent impoundment, or jurisdictional tributary and do not meet the definition of a paragraph (a)(4) adjacent wetland or any of the other waters listed under Item 7 on this MFR. Therefore, Wetlands 1, 2, 3, 4, and 5 are not waters of the U.S. as supported by the following:
 - A review of the wetland delineation report submitted by SJL Wetlands, LLC confirms that Wetlands 1, 2, 3, 4, and 5 meet the definition of a wetland as described in 33CFR328.3. Wetlands 1, 2, 3, 4, and 5 were delineated in accordance with the 1987 Corps of Engineers Wetlands

⁸ 88 FR 3004 (January 18, 2023)

Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0).

- The wetlands were described in the submitted wetland delineation report as follows:
 - Wetland 1 is a shallow emergent marsh (Palustrine emergent [PEM]) community type dominated by common reed (*Phragmites australis*), measuring 0.049-acre in size.
 - Wetland 2 is a shallow emergent marsh (PEM) community type dominated by woolgrass (*Scirpus cyperinus*), soft rush (*Juncus effusus*), purple loosestrife (*Lythrum salicaria*), and dock-leaved smartweed (*Persicaria lapathifolia*), measuring 0.094-acre in size.
 - Wetland 3 is a scrub-shrub swamp (Palustrine scrub-shrub [PSS]) community type dominated by crack willow (*Salix fragilis*), clasp dogbane (*Apocynum sibiricum*), common reed (*Phragmites australis*), and fowl bluegrass (*Poa palustris*), measuring 0.178-acre in size.
 - Wetland 4 is a scrub-shrub swamp (PSS) community type dominated by crack willow (*Salix fragilis*), measuring 0.503-acre in size.
 - Wetland 5 is a scrub-shrub swamp (PSS) community type dominated by bebb's willow (*Salix bebbiana*), reed canarygrass (*Phalaris arundinacea*), and wrinkleleaf goldenrod (*Solidago rugosa*), measuring 0.050-acre in size.
- A review of the administrative record found previous JDs for this parcel:
 - An unauthorized activity occurred during 2006. A letter from USACE dated December 20, 2018 indicated the action had been closed and a new delineation and JD would be required prior to applying for a permit or proceeding with proposed work.
 - An approved JD was finalized on January 22, 2021 under the Navigable Waters Protection Rule, identifying Wetlands 1-5, and Ditches 1 and 2. The ditches and wetlands were considered excluded features at this time due to lack of connection to downstream waters.
- U.S. Geological Survey (USGS) Topographic maps show wetland symbols throughout the review area. The nearest mapped stream is a dotted solid-dotted blue-line, indicating intermittent flow, located approximately 300 linear feet to the southwest of the review area and south of Wehrle Drive. Compared to aerial imagery, it is not clear if this stream still exists amongst the commercial and industrial developments. The nearest relatively permanent tributary visible on the USGS map and

compared to aerial imagery is Ellicott Creek located approximately 5000 linear feet to the southwest of the review area.

- USGS National Hydrological Dataset indicates no drainages or streams within the review area with the nearest located south of Wehrle Road at the location of industrial and commercial developments, located south of the review area.
- USGS Streamstats indicates that the main drainage of the review area is through the northern portion of the review area to the west and then off-site to the northwest. However, compared to aerial imagery, there are no drainage features at this location draining outside the review area and commercial development to the west inhibits drainage in that direction. from the northwest corner of the review area to the north. Other drainage is suggested draining to the south, starting just south of Wehrle road outside of the review area. However, when compared to aerial imagery, the location of the drainage line is developed with commercial and industrial developments.
- Aerial imagery shows saturation and inundation at the locations of Wetlands 1, 2, 3, 4, and 5 in early spring aerial imagery (March and April images) and no evidence of water in summer aerial imagery (June and July images), and minimal saturation in one fall aerial (October image). No potential continuous surface connections for Wetlands 1, 2, 3, 4, and 5 were observed in aerial imagery. The areas where ditches were previously mapped on the 2021 JD appear to have turned into wetlands. One stormwater catch basin can be seen in aerial imagery in the southeast corner of the review area, but there is no relatively permanent tributary on-site that drains to that location and therefore, cannot serve as a continuous surface connection. The agent provided a survey of the review area to help confirm this.
- A review of the USFWS NWI maps shows PEM wetland at the location of Wetland 1 and the nearest Riverine feature as Ellicott Creek located to the east approximately 2500 linear feet.
- The New York State Department of Environmental Conservation (NYSDEC) Environmental Resource Mapper (ERM) shows no wetlands or streams within the review area.

CELRB-ORR

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), LRB-2000-00680

10. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

- a. In-Office Resource Evaluation: April, May & June 2026; final June 30, 2026.
- b. Aquatic resources delineation submitted by, or on behalf, of the requestor: "Wetland and Stream Delineation Report for 716 Sports Fieldhouse Complex, 330 Maple Road, Amherst, NY 14221," dated September 2025; prepared for Arc Building Partners; Prepared by LaBella Associates, D.P.C.
- c. Aerial Imagery: Google Earth aerial imagery dated March 2005, June 2006, July 2014, July 2021, May 2022, May 2023, June 2024, and June 2023; Connect Explorer - <https://explorer.eagleview.com/index.php#-oblique> imagery dated March 27, 2026 and April 25, 2020.
- d. Photographs included in the delineation report, dated September 3, 2025.
- e. USDA NRCS Soil Survey: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> – as provided in the delineation report.
- f. U.S. Fish & Wildlife Service National Wetland Inventory Maps: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>, accessed May 12, 2026 and as provided in the submitted delineation report.
- g. U.S. Geological Survey map(s). NY-Buffalo NE, 2023, scale 1-24000: <https://ngmdb.usgs.gov/topoview/viewer/#15/42.9983/-78.7763>; accessed April & May 2026 and as provided in the submitted delineation report.
- h. USGS Streamstats - <https://streamstats.usgs.gov/ss/> - accessed May and June 2026.
- i. USGS National Hydrological Dataset – accessed May and June 2026.
- j. New York State Department of Environmental Conservation Environmental Resource Mapper - <https://gisservices.dec.ny.gov/gis/erm/> - as supplied in the submitted delineation report.

11. OTHER SUPPORTING INFORMATION.

- a. Antecedent Precipitation Tool (APT) results for coordinates, Latitude: 42.95658 N, Longitude: -78.71278 W:

Date	Explanation of Date	PDSI Value	PDSI Class	Season	Antecedent Precip Score	Antecedent Precip Condition
3/29/2026	Connect Explorer oblique aerial image	1.95	Mild wetness	Wet Season	13	Normal Conditions
8/26/2025	Date of Delineation	-1.1	Mild drought	Dry Season	6	Drier than Normal
4/25/2020	Connect Explorer oblique aerial image	-0.17	Normal	Wet Season	13	Normal Conditions

*PDSI: stands for Palmer Drought Severity Index.

The APT results support that the delineation is representative of the review area. Specifically, for the oblique imagery dates normal conditions for climatic conditions were the result of the score. However, the March 29, 2026 oblique imagery was during a period of mild wetness with significant after a large amount of precipitation in the preceding 10 days. The April 25, 2020 oblique imagery was normal climatic conditions with normal PDSI with saturation and inundation only in the location of where wetlands were delineated. The delineation date of August 26, 2025 was during a period of drier than normal times, but when compared to the two oblique images only saturation/inundation was present in the wetland areas identified in the delineation.

12. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.



Figure 1: USGS Topographical Map Source: apps.nationalmap.gov/viewer		PROJECT CODE 25-067	2190 Wehrle Drive	
		Map Date: 08/29/2025		
			TOWN OF AMHERST	ERIE COUNTY, NY
			SJL Wetlands, LLC	
			PO Box 47 Warsaw, NY 14569	

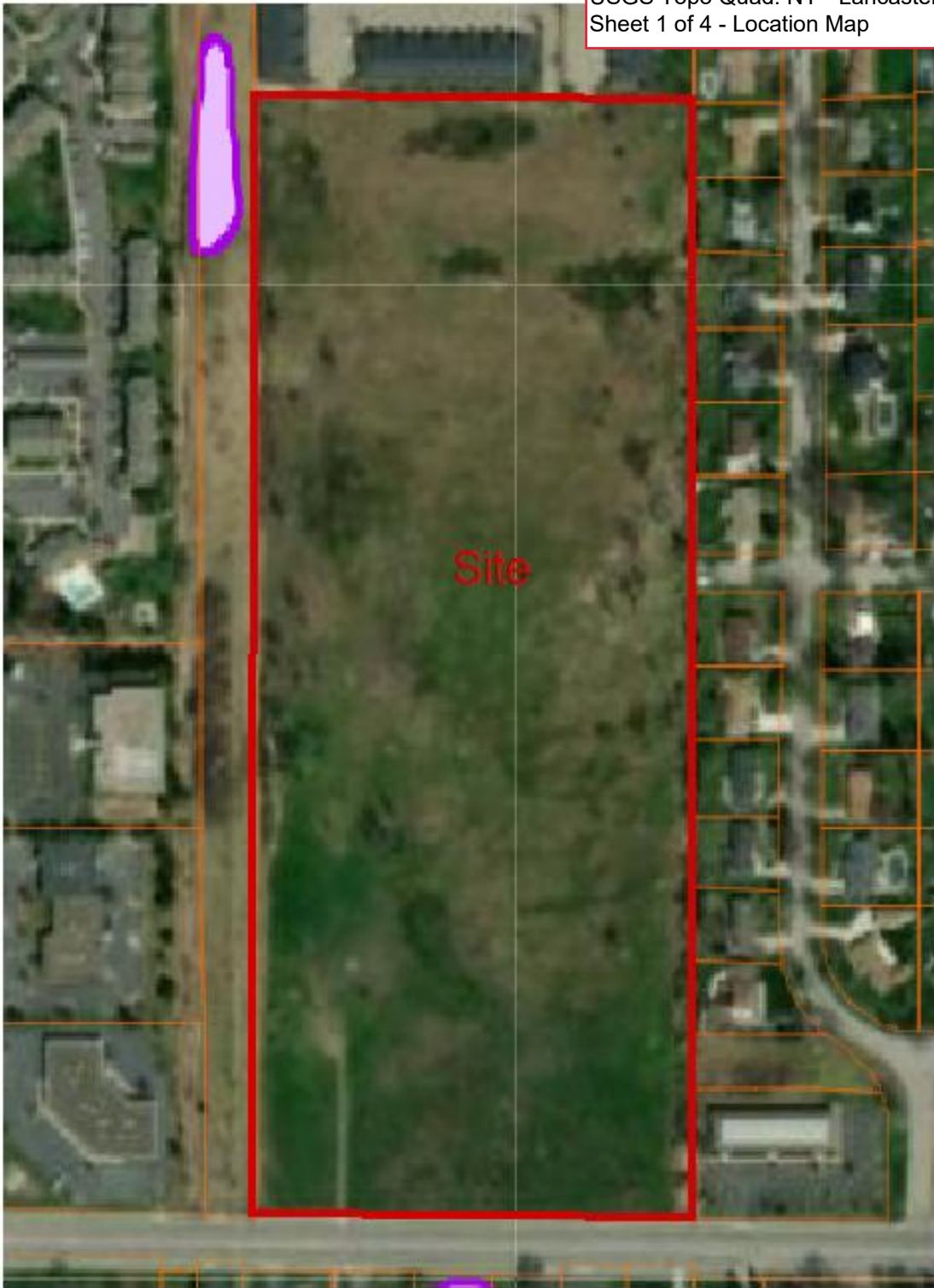


Figure 4: NYSDEC Environmental Resource Mapper
 Source: <https://giservices.dec.ny.gov/gis/emr/>



PROJECT CODE: 25-067	2190 Wehrle Drive	
Map Date: 08/29/2025		
	TOWN OF AMHERST	ERIE COUNTY, NY
	SJL Wetlands, LLC	
	PO Box 47	
	Warsaw, NY 14569	

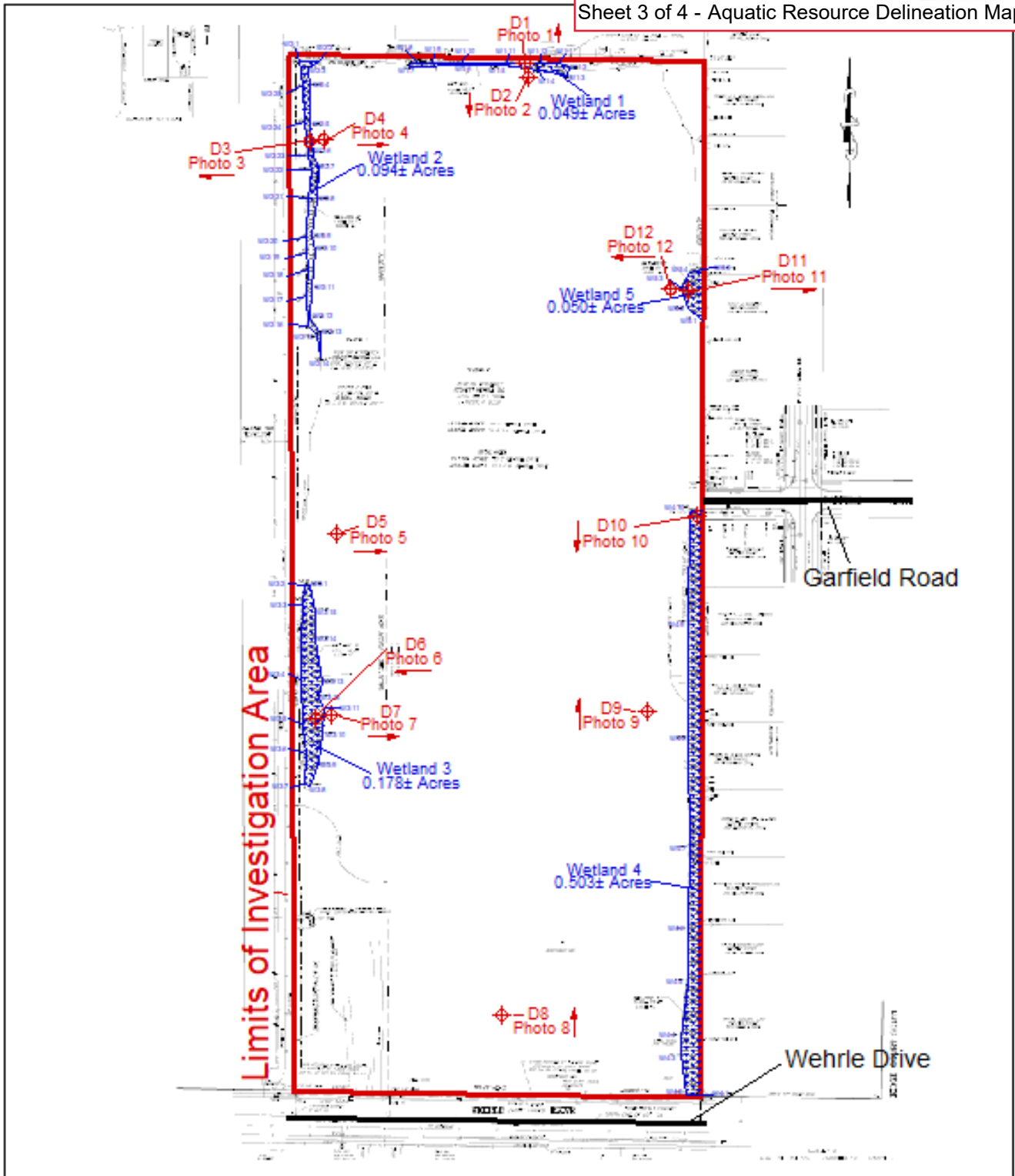


Figure 6: Wetland Delineation Map
 Source: GPI Engineering, Landscape
 Architecture & Surveying, LLP



PROJECT CODE 25-067
 Map Date: 08/29/2025

2190 Wehrle Drive

TOWN OF AMHERST

ERIE COUNTY, NY

SJL Wetlands, LLC
 PO Box 47
 Warsaw, NY 14569

LEGEND:

 WETLAND AREA

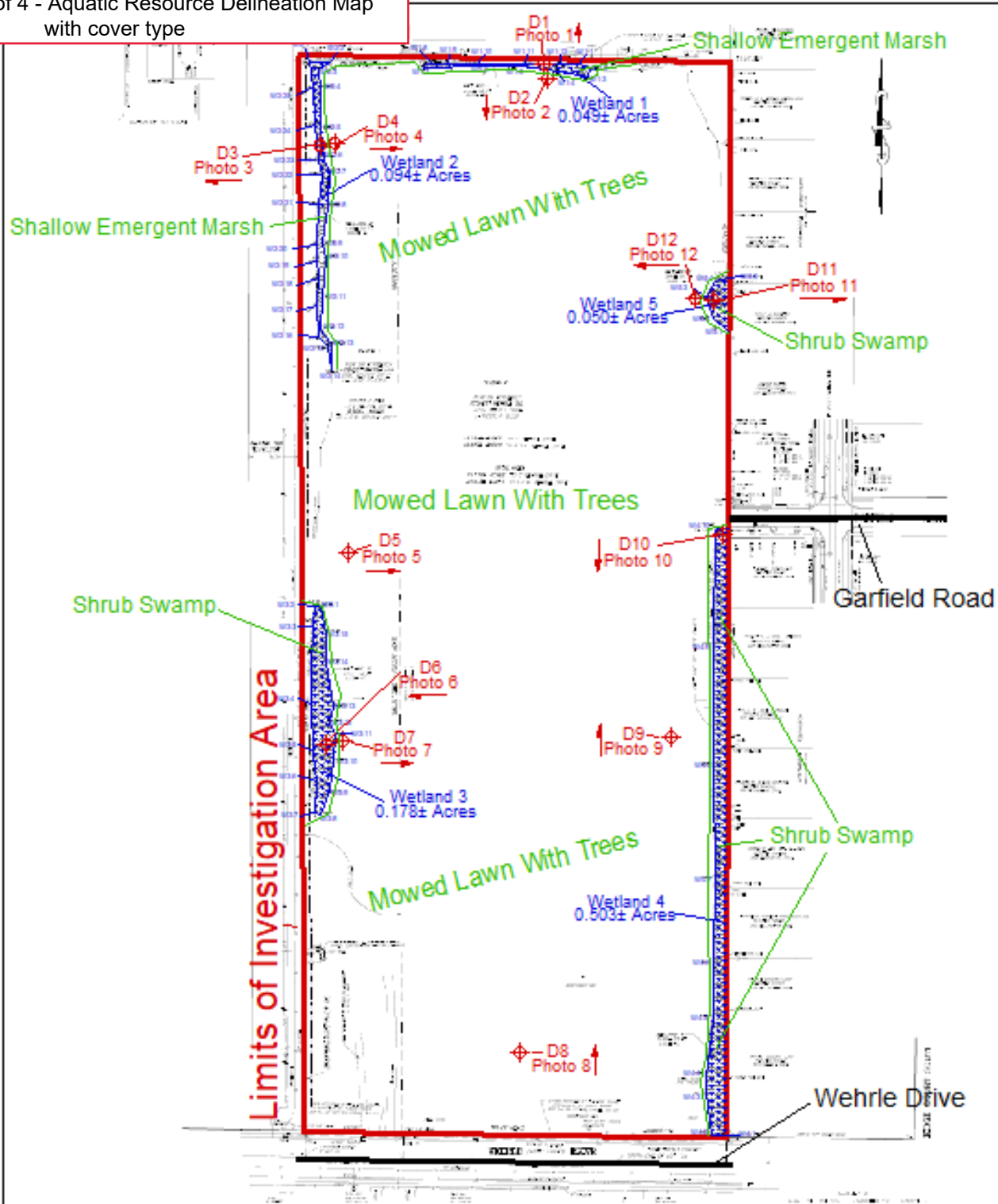


Figure 5: Ecological Communities Map



PROJECT CODE 25-067

Map Date: 08/29/2025

2190 Wehrle Drive

TOWN OF AMHERST

ERIE COUNTY, NY

SJL Wetlands, LLC

PO Box 47
 Warsaw, NY 14569

LEGEND:

 WETLAND AREA

U.S. Army Corps of Engineers (USACE) NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL For use of this form, see Section 404 of the Clean Water Act, Section 10 of the Rivers and Harbors Act of 1899, and Section 103 of the Marine Protection, Research, and Sanctuaries Act; the proponent agency is CECW-COR.		<i>Form Approved –</i> OMB No. 0710-0003 Expires 2027-10-31
DATA REQUIRED BY THE PRIVACY ACT OF 1974		
Authority	The authorities for requesting this information are Sections 9, 10, 13, and 14, Rivers and Harbors Act of March 3, 1899; Section 404, Clean Water Act; and Section 103 Marine Protection Research and Sanctuaries Act of 1972.	
Principal Purpose	This information serves as notification to affected parties regarding the USACE administrative appeal options and process, as well as to facilitate requests for appeal of USACE decisions with which they disagree.	
Routine Uses	Routine uses will include: (a) To serve as notification to affected parties of the Corps administrative appeal options and process and to facilitate requests for appeal of Corps decisions with which they disagree. (b) Records may be referred to the Department of Justice for possible criminal prosecution. (c) Records may be referred to other Federal, State, and local agencies for evaluation and enforcement purposes.	
Disclosure	Disclosure of this information is voluntary on your part. However, failure of individual to provide requested information could result in inability to determine all pertinent information regarding a Department of the Army permit matter.	
The Agency Disclosure Notice (ADN)		
The Public reporting burden for this collection of information, 0710-0003, is estimated to average 1 hour per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or burden reduction suggestions to the Department of Defense, Washington Headquarters Services, at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil . Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.		
PURPOSE: This form is used to facilitate the initiation of the administrative appeals process. The appeals process allows an affected party to pursue an administrative appeal of certain Corps of Engineers decisions with which they disagree.		
Upon release, this form will also be available on the Corps website https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/		
Applicant: Acquest Wehrle, LLC	File Number: LRB-2000-00680	Date: 7/8/2026
Documents Attached (<i>select all that apply</i>):		Form Reference Section:
☐	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
☐	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
☐	PERMIT DENIAL WITHOUT PREJUDICE	C
☐	PERMIT DENIAL WITH PREJUDICE	D
☒	APPROVED JURISDICTIONAL DETERMINATION	E
☐	PRELIMINARY JURISDICTIONAL DETERMINATION	F
SECTION I		
The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/appeals/ or Corps regulations at 33 CFR Part 331.		
A: INITIAL PROFFERED PERMIT: You may accept or object to the permit		
• ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit. • OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.		

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C. PERMIT DENIAL WITHOUT PREJUDICE: Not appealable

You received a permit denial without prejudice because a required Federal, state, and/or local authorization and/or certification has been denied for activities which also require a Department of the Army permit before final action has been taken on the Army permit application. The permit denial without prejudice is not appealable. There is no prejudice to the right of the applicant to reinstate processing of the Army permit application if subsequent approval is received from the appropriate Federal, state, and/or local agency on a previously denied authorization and/or certification.

D: PERMIT DENIAL WITH PREJUDICE: You may appeal the permit denial

You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information for reconsideration

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.
- **RECONSIDERATION:** You may request that the district engineer reconsider the approved JD by submitting new information or data to the district engineer within 60 days of the date of this notice. The district will determine whether the information submitted qualifies as new information or data that justifies reconsideration of the approved JD. A reconsideration request does not initiate the appeal process. You may submit a request for appeal to the division engineer to preserve your appeal rights while the district is determining whether the submitted information qualifies for a reconsideration.

F: PRELIMINARY JURISDICTIONAL DETERMINATION: Not appealable

You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also, you may provide new information for further consideration by the Corps to reevaluate the JD.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:	If you have questions regarding the appeal process, or to submit your request for appeal, you may contact:
Name: Shaina Souder	Name: Suzanne Chubb, Regulatory Appeals Review Officer
Street Address, City, State: 478 Main Street Buffalo, NY 14202	Street Address, City, State: 550 Main Street, Room 10-780, CELRD-PD-O Cincinnati, Ohio 45202-3222
Phone: 716-879-4240	Phone: (513) 218-1243
Email: shaina.r.souder@usace.army.mil	Email: suzanne.l.chubb@usace.army.mil

SECTION II – REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. Use additional pages as necessary. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15-day notice of any site investigation and will have the opportunity to participate in all site investigations.

Email address of appellant and/or agent

Telephone number

Signature of appellant or agent

Date