

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Fish and Wildlife, Region 9  
270 Michigan Avenue, Buffalo, NY 14203-2915  
P: (716) 851-7010 | F: (716) 851-7005  
www.dec.ny.gov

October 28, 2021

Mohammad Qasaymeh  
33 Sanctuary Court  
Buffalo, New York 14221

Dear Mohammad Qasaymeh:

**Determination of No Article 24 Jurisdiction  
Freshwater Wetland CC-10  
166 Klein Road Parcel  
Town of Amherst, Erie County**

This letter serves as notification that Fish & Wildlife Technician, Molly Peck, and I completed a field inspection on October 5, 2021 of the wetland boundary delineation completed by Earth Dimensions, Inc. (EDI), within your 166 Klein Road property (Parcel 56.10-13-1) in the Town of Amherst. Scott Livingstone of EDI accompanied us. The objective of this inspection was to determine if wetlands present within the parcel meet New York State Department of Environmental Conservation (DEC) criteria for state wetlands jurisdiction.

A finger of Freshwater Wetland CC-10 is mapped within the northeast corner of this Klein Road parcel, extending eastward into the Bentley Court subdivision property. Please note that this wetland finger was legally removed pursuant to an Article 24 freshwater wetlands permit issued by the DEC in September 1986. That permit authorized construction of the Bentley Court subdivision. Subsequent to construction of this development, the true on-the-ground boundary of Wetland CC-10 is located >100 feet to the north of your Klein Road property, within the Town-owned parcel 56.01-1-4, and is separated from your property by a 75-foot wide National Grid right-of-way.

During the DEC's October 5, 2021 field inspection of your property, I verified the EDI wetland delineation which identified three small wetlands (ranging in size from 0.110 to 0.417 acre) within your property. These wetlands occur almost completely outside the former (i.e., mapped) boundary of Wetland CC-10, are relatively small in size, are not part of a vernal pool complex, exhibit a seasonally saturated/shallowly flooded hydrologic regime, lack DEC Class 1 wetland characteristics, and are separated by distances of approximately 39, 125, and 210 meters, respectively, from the current on-the-ground boundary of Wetland CC-10 within the Town-owned parcel to the north.

Considering the wetland characteristics described above, the DEC has determined that none of the three EDI-delineated wetlands substantively function as a unit with the extensive area of Wetland CC-10 to the north in providing wetland benefits. Similarly, we determined that none of the three EDI-delineated wetlands are dependent on each other or on Wetland CC-10, within the Town-owned parcel to the north, in providing wetland benefits. Therefore, we determined that Wetland CC-10 does not extend into the 166 Klein Road parcel.

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This determination is consistent with past wetland determinations by DEC in May 1990 and October 2015. This analysis is specific to this parcel and this circumstance has no precedential value for any other site.

Please be aware that wetland boundaries may change over time and this letter does not fix wetland boundaries indefinitely. The DEC will consider this wetland determination to be valid for five (5) years from the date of this letter.

Please note that the regulated 100-foot adjacent area associated with the Wetland CC-10 boundary within the Town-owned parcel to the north does not extend into the 166 Klein Road parcel. Therefore, there is no Article 24 Freshwater Wetlands jurisdiction within the parcel, so an Article 24 Freshwater Wetlands permit is not needed for any activities proposed within the parcel.

Please be advised that the U.S. Army Corps of Engineers may have wetland jurisdiction irrespective of the Department of Environmental Conservation. For more information, you may contact the Corps at:

United States Army Corps of Engineers Regulatory Branch  
1776 Niagara Street  
Buffalo, New York 14207  
Telephone: (716) 879-4330

If you have any questions about this wetlands determination, feel free to contact me in the Buffalo office at (716) 851-7024 or [Charles.Rosenburg@dec.ny.gov](mailto:Charles.Rosenburg@dec.ny.gov).

Sincerely,



Charles P. Rosenberg  
Region 9 BEH Habitat Protection Manager

CPR:ef

cc: Maureen Brady, Esq., NYSDEC Regional Attorney  
David Denk, NYSDEC Division of Environmental Permits  
Roy Jacobson, NYSDEC Bureau of Ecosystem Health  
Katherine McNamara, NYSDEC Director of Legislative Affairs  
Assemblywoman Karen McMahon  
Elliot Lasky, Regency Homes, LLC  
Scott Livingstone, Earth Dimensions Inc.  
Wetland CC-10 file