



DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, LOUISVILLE
CORPS OF ENGINEERS
INDIANAPOLIS REGULATORY OFFICE
9799 BILLINGS ROAD
INDIANAPOLIS, INDIANA 46216-1055
<http://www.lrl.usace.army.mil>

April 13, 2010

Operations Division
Regulatory Branch (North)
ID No. LRL-2009-1377-sam

Ms. Laura Hilden
Indiana Department of Transportation
100 North Senate Avenue, Room N642
Indianapolis, IN 46204

Dear Ms. Hilden:

This is in regard to the letter of December 23, 2009, requesting a jurisdictional determination of Sugar Creek and its abutting 0.72 acre jurisdictional wetlands (Wetlands 21, 22, 23, 24, 25, and 26), Brandywine Creek and its abutting 0.73 acre of jurisdictional wetlands (Wetlands 28, 29, 30), Buck Creek and its abutting 0.30 acre jurisdictional wetlands (Wetlands 14, 15, 16, 17, 18), Grassy Creek and its abutting 0.31 acre of jurisdictional wetlands (Wetlands 1, 3, 4), Parker Eastes Ditch, Potts Ditch, Parker Ditch, and 1.02 acres of isolated wetlands (Wetlands 1a, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20, and 27). The proposed project is associated with Interstate Route 70 added travel lanes project located in Marion and Hancock County (Des No. 0200699 and 0200700).

The U.S. Army Corps of Engineers exercises regulatory authority under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403) and Section 404 of the Clean Water Act (33 USC 1344) for certain activities in "waters of the United States (U.S.)". These waters include all waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce.

Based on a review of the submitted information, we have verified that Sugar Creek, Brandywine Creek, Buck Creek, Grassy Creek, Parker Ditch, Parker Eastes Ditch, Potts Ditch, and their abutting wetlands (Wetlands 1, 3, 4, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 28, 29, and 30) are hydrologically connected to "traditional navigable water (TNW)" and as such, the above defined features are considered jurisdictional "waters of the U.S." These waters perform numerous functions that have a substantial, or more than speculative, effect on the White River (a TNW). Therefore, any impacts associated with these "waters of the U.S." will require a Department of Army (DA) permit.

Reported Isolated Wetlands 1a, 5, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20 and 27 do not appear to be used or be susceptible to use in interstate or foreign commerce. As such, we do not consider these wetlands to be "waters of the U.S.". Therefore, a DA permit is not required for impacts associated with these wetlands.

This letter contains an approved jurisdictional determination (JD) for your site. If you object to this JD, you may request an administrative appeal under Corps regulations at 33 CFR Part 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 JD you must submit a completed RFA form to the Lakes and Rivers Division Office at the following address:

Ms. Pauline D. Thorndike, Appeal Review Officer
US Army Engineer Division, Cincinnati
Attn: CELRD-PD-R
550 Main Street, Room 10032
Cincinnati, OH 45202-3222
(513) 684-6212

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 Part 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 June 14, 2010.

This jurisdictional determination is valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date. However, this determination does not relieve you of the responsibility to comply with applicable state law. We urge you to contact the Indiana Department of Environmental Management, Section 401 Water Quality Certification Program, 100 North Senate Avenue, Indianapolis, Indiana, 46204 to determine the applicability of state law to the isolated wetlands mentioned above.

It is not necessary to submit an RFA form to the Division office if you do not object to the JD in this letter.

If you have any questions concerning this matter please contact me at the above address or by calling 317-532-4226. Any correspondence should reference our assigned Identification Number LRL-2009-1377-sam.

Sincerely,



Scott A. Matthews
Project Manager
Indianapolis Regulatory Office

Enclosure

Copy Furnished: IDEM (Sanders)