

WETLAND DELINEATION

**PARCEL NUMBERS 300 -0781, -1893,
-1894, & -3087**

**CITY OF HUDSON
SUMMIT COUNTY, OHIO**

JANUARY 2025

Prepared for:

**PRESTIGE HOMES
4301 DARROW ROAD – SUITE 2500
STOW, OHIO 44224**

Prepared by:



HZW Environmental
Consultants

**6105 Heisley Road ♦ Mentor, Ohio 44060
440-357-1260 ♦ Fax 440-357-1510**

TABLE OF CONTENTS

1.0	INTRODUCTION	1
1.1	Purpose	1
1.2	Methods of Investigation	1
2.0	SITE DESCRIPTION	4
3.0	FINDINGS	5
3.1	Background Research	5
3.1.1	2024 Hudson, Ohio, National Wetlands Inventory (NWI) map	5
3.1.2	2023 Hudson, Ohio, USGS 7.5 Minute Topographic Quadrangle Map	5
3.1.3	2023 Soil Survey of Summit County	5
3.1.4	Hydric Soils List for Summit County	6
3.2	Field Investigation	6
3.2.1	Wetland Areas Delineated	6
3.2.2	Non-Wetland Areas	6
4.0	CONCLUSIONS	7
5.0	DISCUSSION OF FUTURE PERMITTING SCENARIOS	8
6.0	RECOMMENDATIONS	9
7.0	REFERENCES	10
8.0	QUALIFICATIONS	11

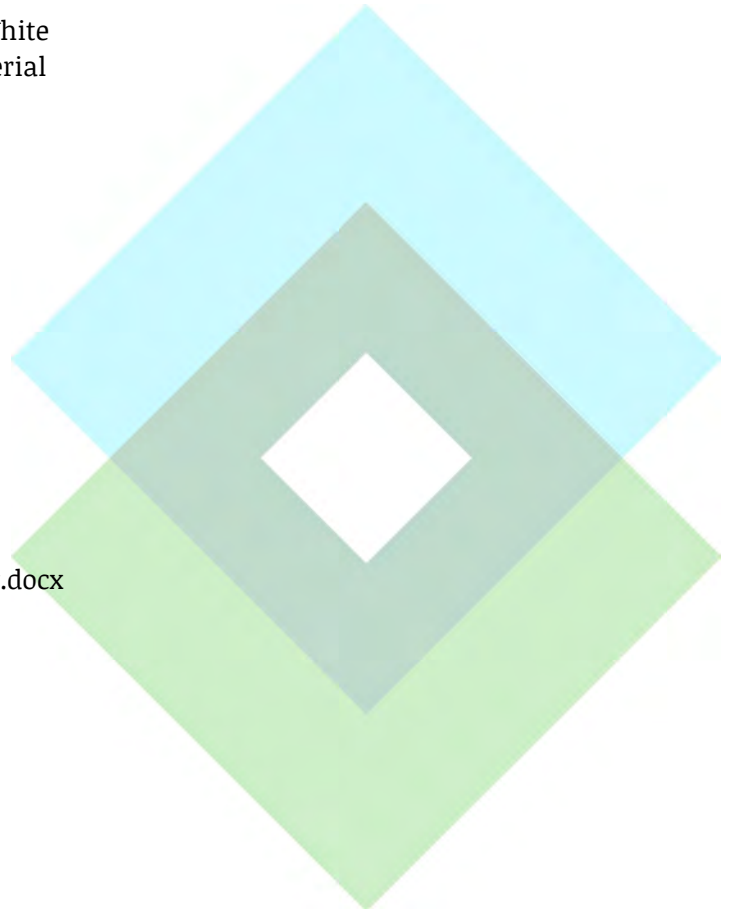
APPENDICES

- Appendix A – Figure 1: Site Location Map
Figure 2: USGS Topographic Map
Figure 3A: Aquatic Resources Map-White
Figure 3B: Aquatic Resources Map-Aerial
- Appendix B – Photographic Log
- Appendix C – Wetland Determination Data Forms

TABLES

- Table 1 – Summary of On-Site Wetlands

BDL:bd\H24131-01
Appendices
I:\2024\H24131-01\Delin\Prestige Martin Delin - Body.docx



WETLAND DELINEATION

Parcel Numbers 300 -0781, -1893, -1894, & -3087
City of Hudson, Summit County, Ohio (H24131-01)

1.0 INTRODUCTION

On September, 11 2023, HZW Environmental Consultants, LLC (HZW) conducted a wetland delineation of Parcel Numbers 300 -0781, -1893, -1894, & -3087 located in the City of Hudson, Summit County, Ohio (herein referred to as the “Study Area”). This study was conducted in accordance with HZW’s agreement with Prestige Homes (herein referred to as the “Client”).

1.1 Purpose

The primary purpose of this wetland delineation was to identify areas within the boundaries of the Study Area that meet the three (3) criteria of a wetland: hydrophytic vegetation, hydric soils and wetland hydrology and any other areas (streams, ponds, etc.) that are considered “waters of the United States” and “waters of the State of Ohio.”

1.2 Methods of Investigation

All investigative methods and field procedures were performed in accordance with the guidelines established in the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0) (ERDC/EL TR-12-1; January 2012) and the 1987 Army Corps of Engineers (Corps) Manual, Technical Report Y-87-1, Field Guide for Wetland Delineation (1987 Manual). As required by the 1987 Manual, available reference materials were reviewed for the Study Area. These references included, but were not limited to, the 2024 Hudson, Ohio, National Wetlands Inventory (NWI) map published online by the United States Fish and Wildlife Service; Hudson, Ohio, United States Geological Survey (USGS) 7.5 Minute Topographic Quadrangle Map; the Web Soil Survey of Summit County, Ohio (Soil Survey) issued in 2023 by the United States Department of Agriculture (USDA); and a list of hydric soils published by the Natural Resource Conservation Service (NRCS) for Summit County.

The site investigation methods followed the “Areas less than 5 Acres in Size,” as described in Section D - Subsection 2 of the 1987 Manual. As a new plant community or change in hydrology was observed, a data point was established (designated “DP1” through “DP5”). At each data point, field conditions were evaluated and recorded to determine the presence or absence of hydrophytic vegetation, hydric soil conditions, and wetland hydrology. In addition, a photographic log was prepared for the Study Area during the site investigation activities. At any data point exhibiting all three (3) wetland criteria, the wetland area was assigned a letter designation (e.g., Wetland A) and the delineated boundary of the wetland area was flagged with consecutively numbered, pink and black striped field flagging. The location of each flag was mapped using a Trimble® GeoXH Global Positioning System (GPS) unit. A discussion of the three (3) evaluation criteria of a wetland is presented below.

Hydrophytic Vegetation

Hydrophytic vegetation is the community of macrophytes that occur in areas where inundation or soil saturation is either permanent or of sufficient frequency and duration to exert a controlling influence on the plant species present. Hydrophytic vegetation is present when the plant community is dominated by species that can tolerate prolonged inundation or soil saturation during the growing season. Hydrophytic vegetation is determined by the wetland indicator status (Reed, 1998, or current approved list) of species that make up the plant community. Species in the facultative categories (FACW, FAC, and FACU) are recognized as occurring in both wetlands and non-wetlands to varying degrees. In general, wetlands are dominated mainly by species rated OBL, FACW, and FAC.

The dominant vegetation, representing the major landscape or vegetation units, was determined for each of the four strata (tree, sapling/shrub, herbaceous, and vine) within one or more sampling plots established in representative locations within each unit. Plot size is determined by the type of vegetation present in accordance with the following table.

Trees	30-foot radius	Herb	5-foot radius
Saplings/shrubs	15-foot radius	Woody Vines	30-foot radius

In general, percent cover for all species was estimated to determine abundance (dominance). For species determined to be dominant, the appropriate indicator status was assigned. If all dominant species across all strata were listed as OBL and/or FACW, the plot was determined to exhibit hydrophytic vegetation and a detailed comparison of all dominant species was not necessary to make this determination. If the plot is not dominated solely by OBL and FACW species across all strata, dominant species within all strata were then added to determine the percentage of wetland vegetation for each sample point. The hydrophytic vegetation criterion was determined to be met if greater than 50 percent of the dominant vegetation across all strata was indicative of hydrophytic vegetation.

Hydric Soils

Hydric soil is a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile. To determine the extent of hydric soils in the Study Area, soil samples were obtained at each data point or at a point proximal to a data point that best represents the estimated boundary of hydric/non-hydric soils based on other field observations. A standard Munsell soil color chart was used to determine the hue, value, and chroma of each soil sample. Soil samples were taken at a sufficient depth such that soil conditions immediately below the A horizon or at a depth of ten (10) inches, whichever is shallowest, can be observed. Criteria established by the National Technical Committee for Hydric Soils (1991 and 2006) were used to determine hydric soils. Hydric soil indicators including redox depletions (gley), low chroma colors with redox concentrations (mottles), histosols (organic matter accumulation - muck/peat), histic epipedons (organic soil over low chroma mineral soils), sulfidic odor, listing on a local hydric soils list, and listing on a national hydric soil list, are used to determine the presence of hydric soils.

Wetland Hydrology

Wetland hydrology indicators are used in combination with indicators of hydrophytic vegetation and hydric soils to determine whether an area is a wetland. Typically, vegetation and soils provide strong evidence that wetland hydrology is also present. Hydrology indicators provide evidence that the site has a *continuing* wetland hydrologic regime and confirm that an episode of inundation or soil saturation occurred recently. Hydrology indicators may provide little additional information about the timing, duration, or frequency of such events. Each data point was examined for the presence of primary and secondary hydrological indicators that indicate surface water or soil saturation, evidence of recent inundation, evidence of current or recent soil saturation, and other on-site conditions or data.



2.0 SITE DESCRIPTION

On September 11, 2023, Rachel Davidson, a certified wetland delineator with HZW, conducted a field investigation of the Study Area. The Study Area is approximately 2.7 acres in size and is located south State Route 303 and west of Terex Road in the City of Hudson, Summit County, Ohio. Currently, the Study Area consists of an undeveloped forest, a mowed field, and a residence. A site map depicting the location of the Study Area is included as **Figure 1** in **Appendix A**.

The Study Area is located within the Cuyahoga River Watershed (HUC 8: 04110002) and is situated within the Erie/Ontario Drift and Lake Plain ecoregion.



3.0 FINDINGS

The findings of the background resources reviewed and field investigation conducted as part of the delineation activities are discussed separately.

3.1 Background Research

3.1.1 2024 Hudson, Ohio, National Wetlands Inventory (NWI) map

The NWI map indicates the presence of a PSS1C feature in the central portion of the Study Area. This entails a palustrine forested/shrub wetland. No other aquatic features were indicated within the study area boundary.

3.1.2 2023 Hudson, Ohio, USGS 7.5 Minute Topographic Quadrangle Map

The 2023 Hudson, Ohio, USGS 7.5-minute topographic quadrangle map indicates that the Study Area is generally flat, but is situated within a concave depression. The minimum elevation is approximately 1010 feet above National Geodetic Vertical Datum (NGVD), and the maximum elevation is approximately 1020 feet above NGVD. No aquatic resources are indicated within the boundaries of the Study Area on the topographic quadrangle map. The portion of the Hudson, Ohio, topographic quadrangle map depicting the Study Area is presented as **Figure 2** in **Appendix A**.

3.1.3 2023 Soil Survey of Summit County

The Soil Survey shows that the Study Area is underlain by two (2) soil types:

CcB Caneadea silt loam, 2 to 6 percent slopes. This is a deep, gently sloping, and somewhat-poorly drained soil found on undulating terraces. Included in mapping are small knolls of moderately well-drained Glenford and Geeburg soils, and areas of soils that have a silt mantle. Also included, particularly in shallow drainageways and depressions, are small spots of poorly drained Canadice soils, which are wetter than this Caneadea soil. Permeability is very slow, resulting in seasonal wetness, and runoff is rapid. Some areas are moderately eroded. This soil is mapped in the central portion of the Study Area.

GbC2 Geeburg silt loam, 6 to 12 percent slopes. This soil is on hillsides in the Cuyahoga River valley. Included in mapping are small spots of Ellsworth and Glenford soils and areas of soils that are not eroded. Runoff is rapid and permeability is slow. This soil is mapped in the northern and southern portions of the Study Area.

There are no aquatic resources mapped in the boundaries of the Study Area.

3.1.4 Hydric Soils List for Summit County

According to the list of hydric soils for Summit County, CcB is considered non-hydric with hydric components, and GbC2 is considered non-hydric.

3.2 Field Investigation

3.2.1 Wetland Areas Delineated

Field investigation data gathered on September 11, 2023, identified three (3) areas within the boundaries of the Study Area that are classified as wetlands based on the presence of the three (3) wetland criteria (wetland hydrology, hydric soils, and hydrophytic vegetation). These areas are designated by HZW as “Wetland A” through “Wetland C”. The location of the wetlands and the location of the wetland data points (designated “DP2” through “DP5”) established during delineation activities is indicated on the aquatic resources map presented as **Figure 3A** in **Appendix A**. A map depicting the aquatic resources overlaying an aerial photograph is presented as **Figure 3B** in **Appendix A**. The photographic log prepared for the Study Area during the field investigation activities is included as **Appendix B**. The wetland determination data forms prepared for the Study Area are included as **Appendix C**. A description of the wetland area identified within the boundaries of the Study Area is provided in **Table 1**, below.

Table 1 – Summary of On-Site Wetlands

<u>Wetland</u>	<u>Type</u>	<u>Data Point</u>	<u>Photograph</u>	<u>Acres</u>
A	Forested	DP2	3, 4	0.05
A	Emergent	DP3	5, 6	0.10
B	Emergent	DP4	7, 8	0.03
C	Emergent	DP5	9, 10	0.05*

**Represents on-site acreage*

3.2.2 Non-Wetland Areas

The data collected at the remaining data point, “DP1”, did not meet all of the criteria of a wetland; therefore, these areas are considered non-wetland. Refer to the aquatic resources map presented as **Figure 3A** in **Appendix A** for the location of “DP1”, and the wetland determination data forms included as **Appendix C** for more detailed information regarding the hydrology, soils, and vegetation found at the non-wetland data points.

4.0 CONCLUSIONS

In summary, three (3) areas within the Study Area were identified as containing hydrophytic vegetation, hydric soil, and wetland hydrology, and, therefore, are considered wetlands. Upon completion of the delineation, the location and configuration of the wetland and streams located within the Study Area were mapped using a Trimble® GeoXH GPS unit, which has an accuracy of less than one (1) meter.

The Corps will make the final determination regarding jurisdiction of the identified aquatic resources during the affirmation process.



5.0 DISCUSSION OF FUTURE PERMITTING SCENARIOS

Based on the United States Supreme Court ruling (No. 99-1178), issued on January 9, 2001, it is HZW's understanding that those wetlands that are non-navigable, isolated, and intrastate may no longer be included in the Corps' jurisdiction. In order to inform the Client of all available scenarios pertaining to the development of the Study Area, discussions presented in this report are based on the wetland delineation activities being conducted in accordance with the 1987 Manual and the Regional Supplement, which evaluate wetland characteristics irrespective of whether the wetland area is considered to be non-isolated (federally-regulated) or isolated (state-regulated). Currently, the Corps is making jurisdictional determinations.

For most Nationwide Permits (NWP), if the impacts associated with the activity/development do not exceed 0.50 of an acre of waters of the United States, coverage under an NWP is appropriate. (Note: all stream impacts must be converted to an acreage and added to the non-isolated wetland impacts; the total impact to all "waters of the U.S." must be under 0.50 of an acre to qualify for this coverage.) A pre-construction notification (NWP application) is required for coverage under most NWPs and compensatory mitigation is generally required.

If future development would impact greater than 0.50 of an acre of waters of the United States, a Section 404 Individual Permit from the Corps and a Section 401 Water Quality Certification from the Ohio EPA would be required prior to initiating construction activities. The Corps and Ohio EPA will likely require mitigation for all wetland and stream impacts.

For those wetlands that are only within the jurisdiction of the Ohio EPA, regulations have been developed as House Bill 231. Currently, if less than 0.50 of an acre of isolated wetland impacts are proposed, a General Isolated Wetland Permit (Level 1 Review) will be required prior to impacting those wetlands. Isolated wetland impacts over 0.50 of an acre will require a more detailed permitting process with the Ohio EPA. Compensatory mitigation will be required for any amount of isolated wetland impact.

6.0 RECOMMENDATIONS

Based on the findings presented above, HZW presents the following recommendations for consideration at the Study Area:

1. Submit one (1) copy of this wetland delineation report to the Corps for affirmation of the boundary of the wetland and jurisdictional determination of the aquatic resources located within the Study Area. Presently, the Corps is the agency responsible for conducting wetland affirmations and is providing written jurisdictional determinations.
2. Should impacts be anticipated to the wetland and/or streams identified on site following a jurisdictional determination, obtain the appropriate permit from the Corps and/or Ohio EPA prior to impacting these areas.

Note: *Should the Corps desire to conduct a field affirmation, additional regulated waters may be identified within the boundaries of the Study Area based on differing field conditions than present during the time this delineation study was conducted.*



7.0 REFERENCES

A bibliography of references reviewed as part of this delineation is presented below.

7.1 Bibliography

1. Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Web Soil Survey. Available online at <http://websoilsurvey.nrcs.usda.gov/>. Accessed [12/18/24]
2. U. S. Fish and Wildlife Service. 2023. National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. <http://www.fws.gov/wetlands> [12/18/24]
3. *Topographic Map*, United States Geological Survey; 2023 Hudson, Ohio, USGS 7.5 Minute Topographic Quadrangle.
4. *Field Guide for Wetland Delineation*, United States Army Corps of Engineers, Technical Report Y-87-1, 1987.
5. *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (Version 2.0)*, United States Army Corps of Engineers, ERDC/EL TR-12-01, 2012.
6. *List of Hydric Soils for Summit County*, Natural Resource Conservation Service.
7. *National List of Plant Species That Occur in Wetlands: Ohio*, Reed, Porter B., Jr., United States Fish and Wildlife Service, Saint Petersburg, 1988.
8. *Hydric Soils of the United States*, National Technical Committee for Hydric Soils, United States Department of Agriculture, Soil Conservation Service, Washington, 1991.

8.0 QUALIFICATIONS

This wetland delineation was conducted on September 11, 2023, by HZW's certified wetland delineator, Rachel Davidson. Data collection and report writing was completed by Benjamin Latoche. The signatures of the environmental professionals responsible for the preparation of this report are provided below.



Rachel Davidson
Group Leader
Wetlands & Ecology



Benjamin Latoche
Project Manager
Wetlands & Ecology



APPENDIX A

FIGURES 1-3

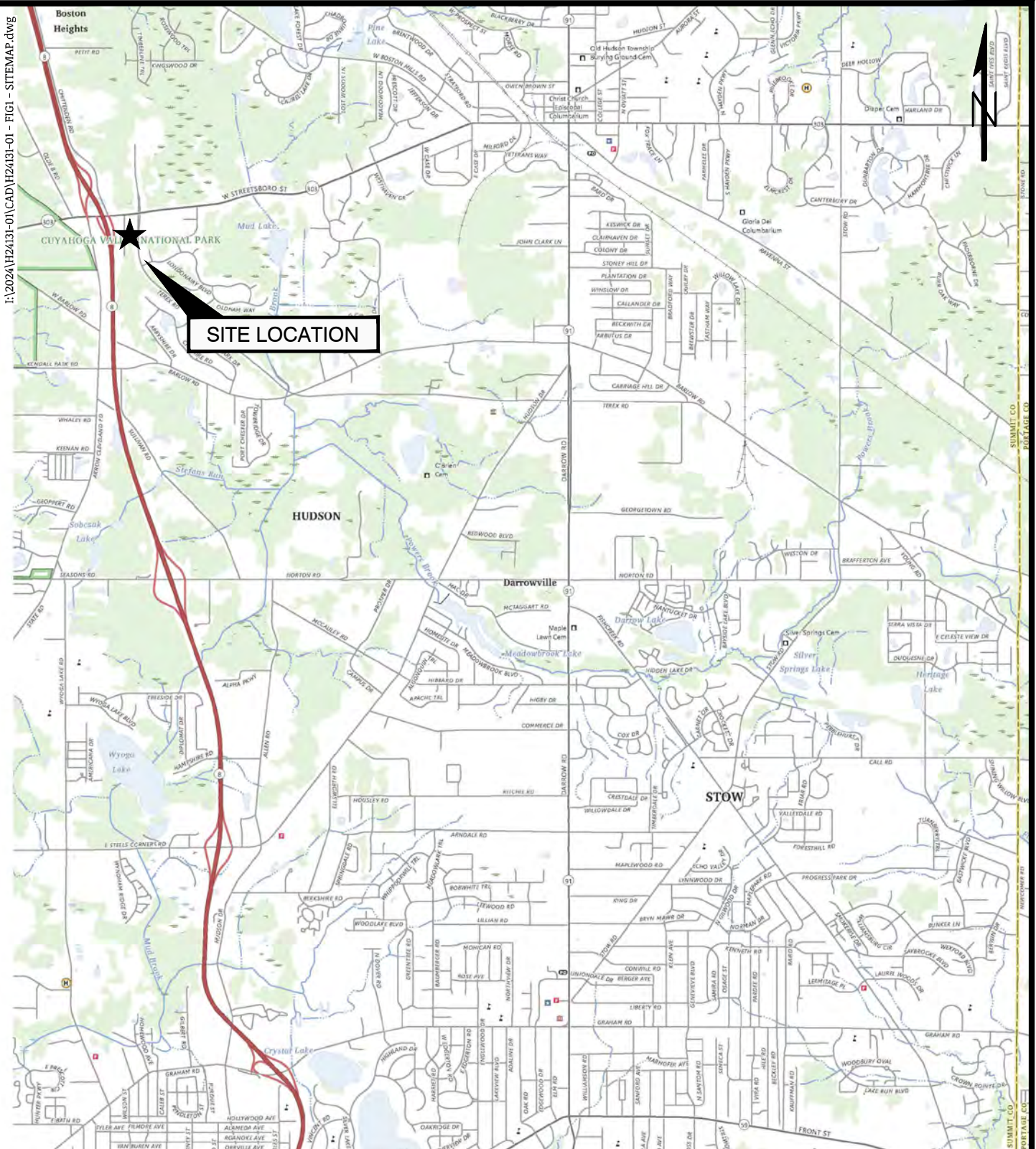
Figure 1 – Site Location Map

Figure 2 – USGS Topographic Map

Figure 3A – Aquatic Resources Map- White

Figure 3B – Aquatic Resources Map- Aerial



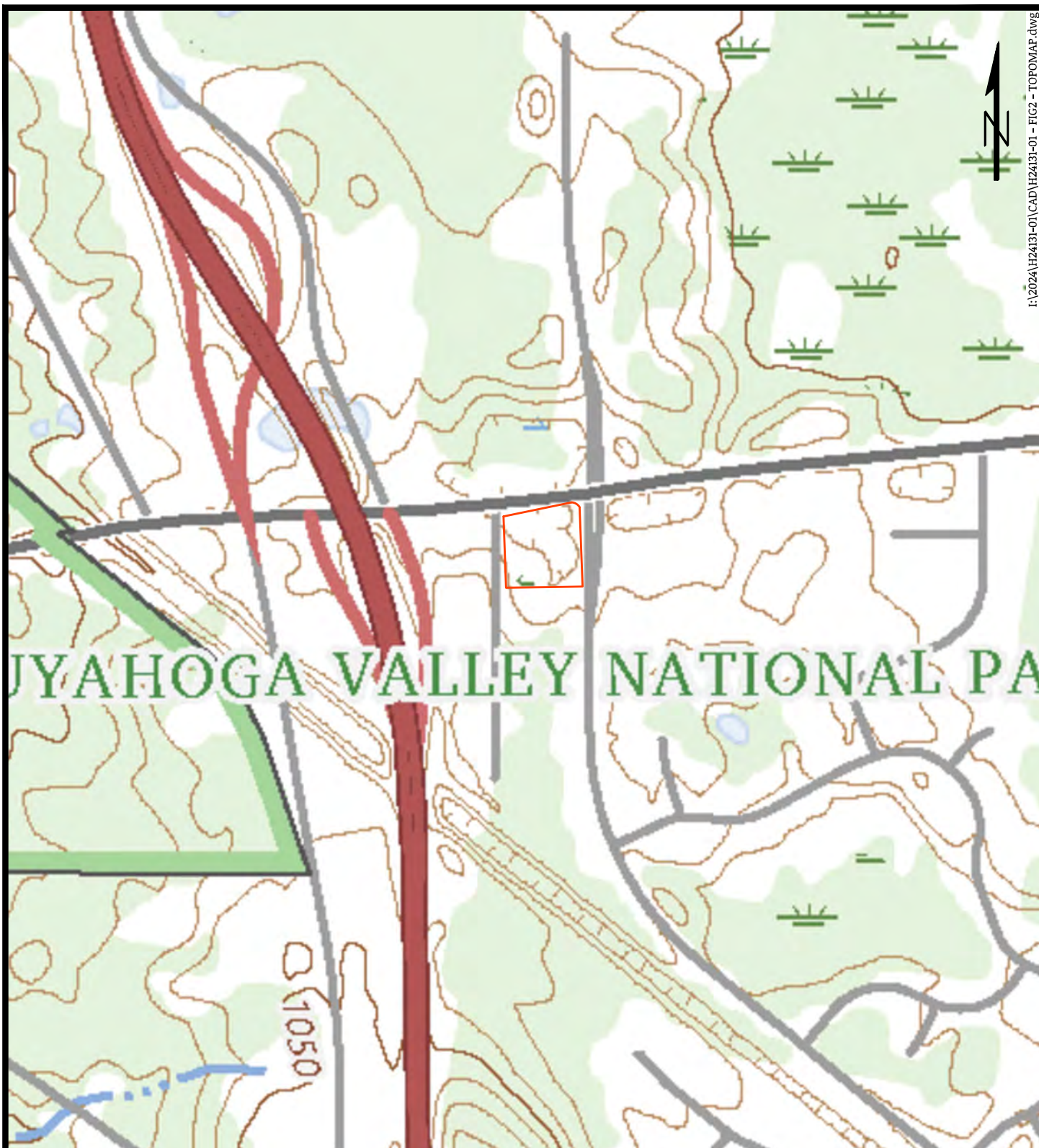


Scale: 1" = 4,000'



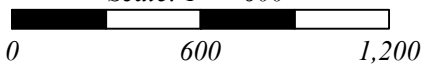
HZW Environmental
Consultants

FIGURE 1
SITE LOCATION MAP
PARCEL NUMBERS 300 -0781, -1893, -1894, & -3087
CITY OF HUDSON, SUMMIT COUNTY, OHIO



 - STUDY AREA

Scale: 1" = 600'

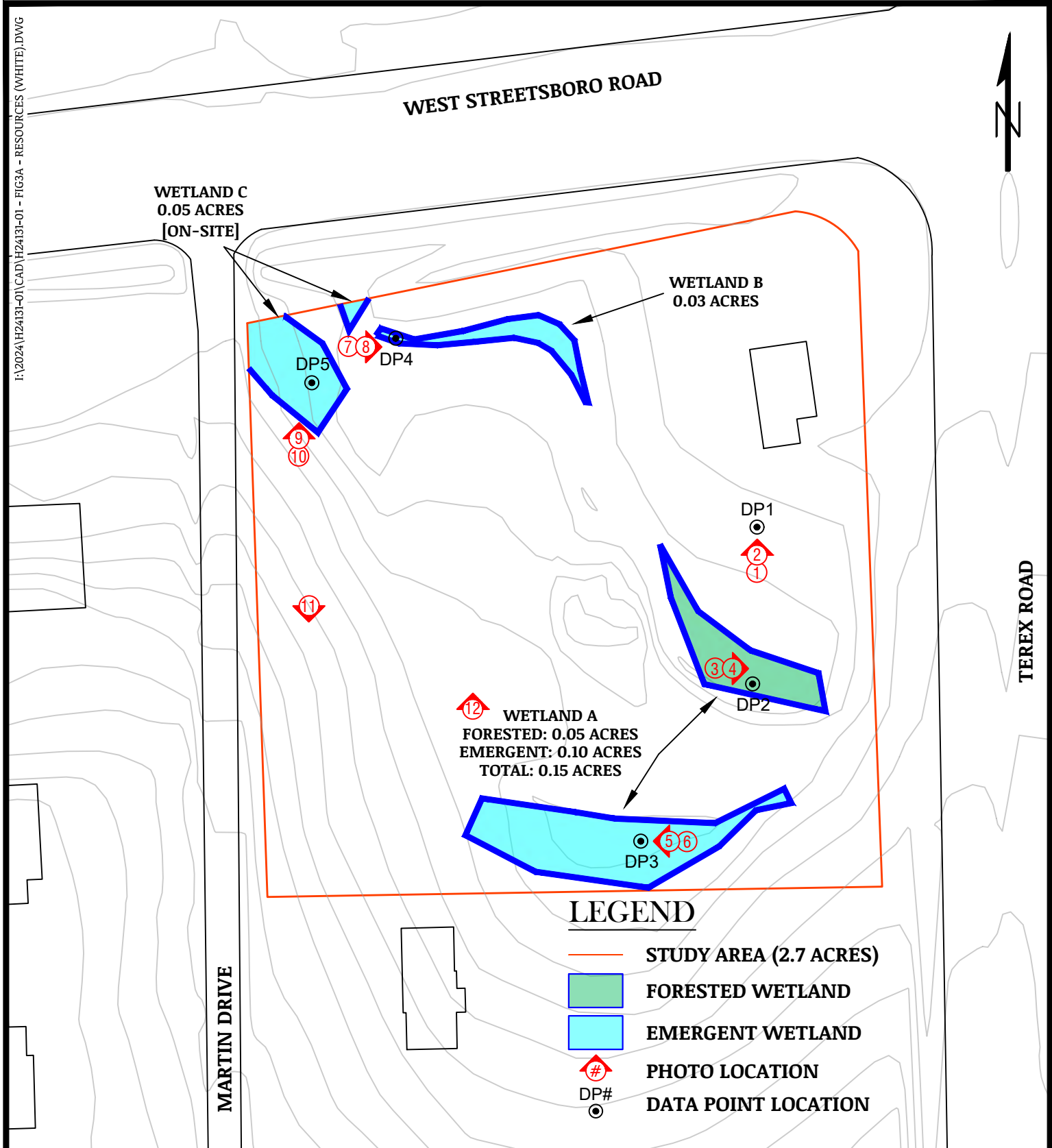


HZW Environmental
Consultants

FIGURE 2

TOPOGRAPHIC MAP

PARCEL NUMBERS 300 -0781, -1893, -1894, & -3087
CITY OF HUDSON, SUMMIT COUNTY, OHIO



HZW Environmental
Consultants

FIGURE 3A
AQUATIC RESOURCES MAP (WHITE)
PARCEL NUMBERS 300 -0781, -1893, -1894, & -3087
CITY OF HUDSON, SUMMIT COUNTY, OHIO



HZW Environmental
Consultants

FIGURE 3B
AQUATIC RESOURCES MAP (AERIAL)
PARCEL NUMBERS 300 -0781, -1893, -1894, & -3087
CITY OF HUDSON, SUMMIT COUNTY, OHIO

APPENDIX B

PHOTOGRAPHIC LOG





Photograph 1
Soil profile at Data Point 1 (non-wetland).



Photograph 2
View facing north depicting conditions at Data Point 1 (non-wetland).



Photograph 3
Soil profile at Data Point 2 (Wetland A – Forested).



Photograph 4
View facing east depicting conditions at Data Point 2 (Wetland A – Forested).



Photograph 5
Soil profile at Data Point 3 (Wetland A - Emergent).



Photograph 6
View facing west depicting conditions at Data Point 3 (Wetland A - Emergent).



Photograph 7
Soil profile at Data Point 4 (Wetland B).



Photograph 8
View facing east depicting conditions at Data Point 4 (Wetland B).



Photograph 9
Soil profile at Data Point 5 (Wetland C).



Photograph 10
View facing north depicting conditions at Data Point 5 (Wetland C).



Photograph 11
View of Study Area facing south.



Photograph 12
View of Study Area facing north.

APPENDIX C

WETLAND DETERMINATION DATA FORMS



U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Northcentral and Northeast Region See ERDC/EL TR-12-1; the proponent agency is CECW-CO-R	OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
--	--

Project/Site: Martin Drive Parcels City/County: City of Hudson, Summit County Sampling Date: 09/11/2023

Applicant/Owner: Prestige Homes State: OH Sampling Point: DP1

Investigator(s): Rachel Davidson Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Concave Slope %: _____

Subregion (LRR or MLRA): LRR R Lat: 41.232092 Long: -81.487082 Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes _____ No <u>X</u> Wetland Hydrology Present? Yes _____ No <u>X</u>	Is the Sampled Area within a Wetland? Yes _____ No <u>X</u> If yes, optional Wetland Site ID: _____
---	---

Remarks: (Explain alternative procedures here or in a separate report.)

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators (minimum of one is required; check all that apply)</u> _____ Surface Water (A1) _____ Water-Stained Leaves (B9) _____ High Water Table (A2) _____ Aquatic Fauna (B13) _____ Saturation (A3) _____ Marl Deposits (B15) _____ Water Marks (B1) _____ Hydrogen Sulfide Odor (C1) _____ Sediment Deposits (B2) _____ Oxidized Rhizospheres on Living Roots (C3) _____ Drift Deposits (B3) _____ Presence of Reduced Iron (C4) _____ Algal Mat or Crust (B4) _____ Recent Iron Reduction in Tilled Soils (C6) _____ Iron Deposits (B5) _____ Thin Muck Surface (C7) _____ Inundation Visible on Aerial Imagery (B7) _____ Other (Explain in Remarks) _____ Sparsely Vegetated Concave Surface (B8)	<u>Secondary Indicators (minimum of two required)</u> _____ Surface Soil Cracks (B6) _____ Drainage Patterns (B10) _____ Moss Trim Lines (B16) _____ Dry-Season Water Table (C2) _____ Crayfish Burrows (C8) _____ Saturation Visible on Aerial Imagery (C9) _____ Stunted or Stressed Plants (D1) _____ Geomorphic Position (D2) _____ Shallow Aquitard (D3) _____ Microtopographic Relief (D4) _____ FAC-Neutral Test (D5)
---	---

Field Observations: Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes _____ No <u>X</u>
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION – Use scientific names of plants.

Sampling Point: DP1

Tree Stratum (Plot size: <u>r = 30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <u>Quercus palustris</u>	10	Yes	FACW	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>5</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>60.0%</u> (A/B)																
2. <u>Acer rubrum</u>	5	Yes	FAC																	
3. <u>Fraxinus pennsylvanica</u>	5	Yes	FACW																	
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	20	=Total Cover		Prevalence Index worksheet: <table style="width: 100%;"> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> <tr> <td>OBL species <u>0</u></td> <td>x 1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>15</u></td> <td>x 2 = <u>30</u></td> </tr> <tr> <td>FAC species <u>5</u></td> <td>x 3 = <u>15</u></td> </tr> <tr> <td>FACU species <u>90</u></td> <td>x 4 = <u>360</u></td> </tr> <tr> <td>UPL species <u>10</u></td> <td>x 5 = <u>50</u></td> </tr> <tr> <td>Column Totals: <u>120</u> (A)</td> <td><u>455</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>3.79</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x 1 = <u>0</u>	FACW species <u>15</u>	x 2 = <u>30</u>	FAC species <u>5</u>	x 3 = <u>15</u>	FACU species <u>90</u>	x 4 = <u>360</u>	UPL species <u>10</u>	x 5 = <u>50</u>	Column Totals: <u>120</u> (A)	<u>455</u> (B)	Prevalence Index = B/A = <u>3.79</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x 1 = <u>0</u>																			
FACW species <u>15</u>	x 2 = <u>30</u>																			
FAC species <u>5</u>	x 3 = <u>15</u>																			
FACU species <u>90</u>	x 4 = <u>360</u>																			
UPL species <u>10</u>	x 5 = <u>50</u>																			
Column Totals: <u>120</u> (A)	<u>455</u> (B)																			
Prevalence Index = B/A = <u>3.79</u>																				
Sapling/Shrub Stratum (Plot size: _____)																				
1. _____																				
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
		=Total Cover																		
Herb Stratum (Plot size: <u>r = 5'</u>)																				
1. <u>Poa pratensis</u>	40	Yes	FACU	Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation <u>X</u> <u>2</u> - Dominance Test is >50% <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. <u>Taraxacum officinale</u>	20	Yes	FACU																	
3. <u>Ambrosia artemisiifolia</u>	10	No	FACU																	
4. <u>Daucus carota</u>	10	No	UPL																	
5. <u>Trifolium pratense</u>	10	No	FACU																	
6. <u>Solidago altissima</u>	5	No	FACU																	
7. <u>Plantago major</u>	5	No	FACU																	
8. _____																				
9. _____																				
10. _____																				
11. _____																				
12. _____																				
	100	=Total Cover																		
Woody Vine Stratum (Plot size: _____)																				
1. _____				Definitions of Vegetation Strata: Tree – Woody plants 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height. Sapling/shrub – Woody plants less than 3 in. DBH and greater than or equal to 3.28 ft (1 m) tall. Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall. Woody vines – All woody vines greater than 3.28 ft in height.																
2. _____																				
3. _____																				
4. _____																				
		=Total Cover		Hydrophytic Vegetation Present? Yes <u>X</u> No <u> </u>																
Remarks: (Include photo numbers here or on a separate sheet.)																				

SOIL

Sampling Point	DP1
----------------	-----

[illegible]

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Northcentral and Northeast Region See ERDC/EL TR-12-1; the proponent agency is CECW-CO-R	OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
--	--

Project/Site: Martin Drive Parcels City/County: City of Hudson, Summit County Sampling Date: 09/11/2023

Applicant/Owner: Prestige Homes State: OH Sampling Point: DP2

Investigator(s): Rachel Davidson Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Concave Slope %: _____

Subregion (LRR or MLRA): LRR R Lat: 41.231751 Long: -81.487197 Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____ If yes, optional Wetland Site ID: <u>Wetland A (Forested)</u>
Remarks: (Explain alternative procedures here or in a separate report.)	

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators (minimum of one is required; check all that apply)</u> ☐ Surface Water (A1) ☒ High Water Table (A2) ☒ Saturation (A3) ☐ Water Marks (B1) ☐ Sediment Deposits (B2) ☐ Drift Deposits (B3) ☐ Algal Mat or Crust (B4) ☐ Iron Deposits (B5) ☐ Inundation Visible on Aerial Imagery (B7) ☐ Sparsely Vegetated Concave Surface (B8) ☒ Water-Stained Leaves (B9) ☐ Aquatic Fauna (B13) ☐ Marl Deposits (B15) ☐ Hydrogen Sulfide Odor (C1) ☐ Oxidized Rhizospheres on Living Roots (C3) ☐ Presence of Reduced Iron (C4) ☐ Recent Iron Reduction in Tilled Soils (C6) ☐ Thin Muck Surface (C7) ☐ Other (Explain in Remarks)	<u>Secondary Indicators (minimum of two required)</u> ☐ Surface Soil Cracks (B6) ☐ Drainage Patterns (B10) ☐ Moss Trim Lines (B16) ☐ Dry-Season Water Table (C2) ☐ Crayfish Burrows (C8) ☐ Saturation Visible on Aerial Imagery (C9) ☐ Stunted or Stressed Plants (D1) ☒ Geomorphic Position (D2) ☐ Shallow Aquitard (D3) ☐ Microtopographic Relief (D4) ☒ FAC-Neutral Test (D5)
Field Observations: Surface Water Present? Yes _____ No <u>X</u> Depth (inches): _____ Water Table Present? Yes <u>X</u> No _____ Depth (inches): <u>6</u> Saturation Present? Yes <u>X</u> No _____ Depth (inches): <u>0</u> (includes capillary fringe)	Wetland Hydrology Present? Yes <u>X</u> No _____
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available: Remarks:	

VEGETATION – Use scientific names of plants.

 Sampling Point: DP2

Tree Stratum (Plot size: <u>r = 30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <u>Ulmus americana</u>	60	Yes	FACW	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>4</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. <u>Populus deltoides</u>	30	Yes	FAC																	
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	90	=Total Cover		Prevalence Index worksheet: <table style="width: 100%;"> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> <tr> <td>OBL species <u>0</u></td> <td>x 1 = <u>0</u></td> </tr> <tr> <td>FACW species <u>70</u></td> <td>x 2 = <u>140</u></td> </tr> <tr> <td>FAC species <u>30</u></td> <td>x 3 = <u>90</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td>x 4 = <u>0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>100</u></td> <td>(A) <u>230</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>2.30</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>0</u>	x 1 = <u>0</u>	FACW species <u>70</u>	x 2 = <u>140</u>	FAC species <u>30</u>	x 3 = <u>90</u>	FACU species <u>0</u>	x 4 = <u>0</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>100</u>	(A) <u>230</u> (B)	Prevalence Index = B/A = <u>2.30</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>0</u>	x 1 = <u>0</u>																			
FACW species <u>70</u>	x 2 = <u>140</u>																			
FAC species <u>30</u>	x 3 = <u>90</u>																			
FACU species <u>0</u>	x 4 = <u>0</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>100</u>	(A) <u>230</u> (B)																			
Prevalence Index = B/A = <u>2.30</u>																				
Sapling/Shrub Stratum (Plot size: <u>r = 15'</u>)																				
1. <u>Fraxinus pennsylvanica</u>	5	Yes	FACW																	
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	5	=Total Cover																		
Herb Stratum (Plot size: <u>r = 5'</u>)																				
1. <u>Phalaris arundinacea</u>	5	Yes	FACW	Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation ☒ <u>2</u> - Dominance Test is >50% ☒ <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
8. _____																				
9. _____																				
10. _____																				
11. _____																				
12. _____																				
	5	=Total Cover																		
Woody Vine Stratum (Plot size: _____)																				
1. _____																				
2. _____																				
3. _____																				
4. _____																				
		=Total Cover																		

Remarks: (Include photo numbers here or on a separate sheet.)

SOIL

Sampling Point	DP2
----------------	-----

[illegible]

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Northcentral and Northeast Region See ERDC/EL TR-12-1; the proponent agency is CECW-CO-R	OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
--	--

Project/Site: Martin Drive Parcels City/County: City of Hudson, Summit County Sampling Date: 09/11/2023

Applicant/Owner: Prestige Homes State: OH Sampling Point: DP3

Investigator(s): Rachel Davidson Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Concave Slope %: _____

Subregion (LRR or MLRA): LRR R Lat: 41.231508 Long: -81.487402 Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____ If yes, optional Wetland Site ID: <u>Wetland A (Emergent)</u>
---	---

Remarks: (Explain alternative procedures here or in a separate report.)

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators (minimum of one is required; check all that apply)</u> _____ Surface Water (A1) _____ Water-Stained Leaves (B9) <u>X</u> High Water Table (A2) _____ Aquatic Fauna (B13) <u>X</u> Saturation (A3) _____ Marl Deposits (B15) _____ Water Marks (B1) _____ Hydrogen Sulfide Odor (C1) _____ Sediment Deposits (B2) _____ Oxidized Rhizospheres on Living Roots (C3) _____ Drift Deposits (B3) _____ Presence of Reduced Iron (C4) _____ Algal Mat or Crust (B4) _____ Recent Iron Reduction in Tilled Soils (C6) _____ Iron Deposits (B5) _____ Thin Muck Surface (C7) _____ Inundation Visible on Aerial Imagery (B7) _____ Other (Explain in Remarks) _____ Sparsely Vegetated Concave Surface (B8)	<u>Secondary Indicators (minimum of two required)</u> _____ Surface Soil Cracks (B6) _____ Drainage Patterns (B10) _____ Moss Trim Lines (B16) _____ Dry-Season Water Table (C2) _____ Crayfish Burrows (C8) _____ Saturation Visible on Aerial Imagery (C9) _____ Stunted or Stressed Plants (D1) <u>x</u> Geomorphic Position (D2) _____ Shallow Aquitard (D3) _____ Microtopographic Relief (D4) <u>X</u> FAC-Neutral Test (D5)
---	---

Field Observations: Surface Water Present? Yes _____ No <u>X</u> Depth (inches): _____ Water Table Present? Yes <u>X</u> No _____ Depth (inches): <u>6</u> Saturation Present? Yes <u>X</u> No _____ Depth (inches): <u>0</u> (includes capillary fringe)	Wetland Hydrology Present? Yes <u>X</u> No _____
--	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION – Use scientific names of plants.

 Sampling Point: DP3

Tree Stratum (Plot size: <u>r = 30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <u>Acer rubrum</u>	10	Yes	FAC	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>4</u> (A) Total Number of Dominant Species Across All Strata: <u>4</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. <u>Acer saccharinum</u>	10	Yes	FACW																	
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	20	=Total Cover		Prevalence Index worksheet: <table style="width: 100%;"> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> <tr> <td>OBL species <u>5</u></td> <td>x 1 = <u>5</u></td> </tr> <tr> <td>FACW species <u>110</u></td> <td>x 2 = <u>220</u></td> </tr> <tr> <td>FAC species <u>10</u></td> <td>x 3 = <u>30</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td>x 4 = <u>0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>125</u> (A)</td> <td><u>255</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>2.04</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>5</u>	x 1 = <u>5</u>	FACW species <u>110</u>	x 2 = <u>220</u>	FAC species <u>10</u>	x 3 = <u>30</u>	FACU species <u>0</u>	x 4 = <u>0</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>125</u> (A)	<u>255</u> (B)	Prevalence Index = B/A = <u>2.04</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>5</u>	x 1 = <u>5</u>																			
FACW species <u>110</u>	x 2 = <u>220</u>																			
FAC species <u>10</u>	x 3 = <u>30</u>																			
FACU species <u>0</u>	x 4 = <u>0</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>125</u> (A)	<u>255</u> (B)																			
Prevalence Index = B/A = <u>2.04</u>																				
Sapling/Shrub Stratum (Plot size: <u>r = 15'</u>)																				
1. <u>Fraxinus pennsylvanica</u>	5	Yes	FACW																	
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	5	=Total Cover																		
Herb Stratum (Plot size: <u>r = 5'</u>)																				
1. <u>Phalaris arundinacea</u>	80	Yes	FACW	Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation ☒ <u>2</u> - Dominance Test is >50% ☒ <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. <u>Poa palustris</u>	10	No	FACW																	
3. <u>Impatiens capensis</u>	5	No	FACW																	
4. <u>Typha angustifolia</u>	5	No	OBL																	
5. _____																				
6. _____																				
7. _____																				
8. _____																				
9. _____																				
10. _____																				
11. _____																				
12. _____																				
	100	=Total Cover																		
Woody Vine Stratum (Plot size: _____)																				
1. _____				Definitions of Vegetation Strata: Tree – Woody plants 3 in. (7.6 cm) or more in diameter at breast height (DBH), regardless of height. Sapling/shrub – Woody plants less than 3 in. DBH and greater than or equal to 3.28 ft (1 m) tall. Herb – All herbaceous (non-woody) plants, regardless of size, and woody plants less than 3.28 ft tall. Woody vines – All woody vines greater than 3.28 ft in height.																
2. _____																				
3. _____																				
4. _____																				
				Hydrophytic Vegetation Present? Yes <u>X</u> No _____																
Remarks: (Include photo numbers here or on a separate sheet.)																				

Sampling Point DP3

Northcentral and Northeast – Version 2.0

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Northcentral and Northeast Region See ERDC/EL TR-12-1; the proponent agency is CECW-CO-R	OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
--	--

Project/Site: Martin Drive Parcels City/County: City of Hudson, Summit County Sampling Date: 09/11/2023

Applicant/Owner: Prestige Homes State: OH Sampling Point: DP4

Investigator(s): Rachel Davidson Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Concave Slope %: _____

Subregion (LRR or MLRA): LRR R Lat: 41.232221 Long: -81.487780 Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____ If yes, optional Wetland Site ID: <u>Wetland B</u>
Remarks: (Explain alternative procedures here or in a separate report.)	

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators (minimum of one is required; check all that apply)</u> _____ Surface Water (A1) _____ Water-Stained Leaves (B9) _____ High Water Table (A2) _____ Aquatic Fauna (B13) _____ Saturation (A3) _____ Marl Deposits (B15) _____ Water Marks (B1) _____ Hydrogen Sulfide Odor (C1) _____ Sediment Deposits (B2) _____ Oxidized Rhizospheres on Living Roots (C3) _____ Drift Deposits (B3) _____ Presence of Reduced Iron (C4) _____ Algal Mat or Crust (B4) _____ Recent Iron Reduction in Tilled Soils (C6) _____ Iron Deposits (B5) _____ Thin Muck Surface (C7) _____ Inundation Visible on Aerial Imagery (B7) _____ Other (Explain in Remarks) _____ Sparsely Vegetated Concave Surface (B8)	<u>Secondary Indicators (minimum of two required)</u> _____ Surface Soil Cracks (B6) _____ Drainage Patterns (B10) _____ Moss Trim Lines (B16) _____ Dry-Season Water Table (C2) _____ Crayfish Burrows (C8) _____ Saturation Visible on Aerial Imagery (C9) _____ Stunted or Stressed Plants (D1) <u>X</u> Geomorphic Position (D2) _____ Shallow Aquitard (D3) _____ Microtopographic Relief (D4) <u>X</u> FAC-Neutral Test (D5)
Field Observations: Surface Water Present? Yes _____ No _____ Depth (inches): _____ Water Table Present? Yes _____ No _____ Depth (inches): _____ Saturation Present? Yes _____ No _____ Depth (inches): _____ (includes capillary fringe)	Wetland Hydrology Present? Yes <u>X</u> No _____
Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available: Remarks:	

VEGETATION – Use scientific names of plants.

 Sampling Point: DP4

Tree Stratum (Plot size: _____)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. _____	_____	_____	_____	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>2</u> (A) Total Number of Dominant Species Across All Strata: <u>2</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
=Total Cover				Prevalence Index worksheet: <table style="width: 100%;"> <tr> <th style="width: 50%;">Total % Cover of:</th> <th style="width: 50%;">Multiply by:</th> </tr> <tr> <td>OBL species <u>70</u></td> <td>x 1 = <u>70</u></td> </tr> <tr> <td>FACW species <u>10</u></td> <td>x 2 = <u>20</u></td> </tr> <tr> <td>FAC species <u>5</u></td> <td>x 3 = <u>15</u></td> </tr> <tr> <td>FACU species <u>5</u></td> <td>x 4 = <u>20</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>90</u> (A)</td> <td><u>125</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>1.39</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>70</u>	x 1 = <u>70</u>	FACW species <u>10</u>	x 2 = <u>20</u>	FAC species <u>5</u>	x 3 = <u>15</u>	FACU species <u>5</u>	x 4 = <u>20</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>90</u> (A)	<u>125</u> (B)	Prevalence Index = B/A = <u>1.39</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>70</u>	x 1 = <u>70</u>																			
FACW species <u>10</u>	x 2 = <u>20</u>																			
FAC species <u>5</u>	x 3 = <u>15</u>																			
FACU species <u>5</u>	x 4 = <u>20</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>90</u> (A)	<u>125</u> (B)																			
Prevalence Index = B/A = <u>1.39</u>																				
=Total Cover																				
Sapling/Shrub Stratum (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
5. _____	_____	_____	_____																	
6. _____	_____	_____	_____																	
7. _____	_____	_____	_____																	
=Total Cover				Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation ☒ <u>2</u> - Dominance Test is >50% ☒ <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
=Total Cover																				
Herb Stratum (Plot size: <u>r = 5'</u>)																				
1. <u>Carex lurida</u>	<u>50</u>	<u>Yes</u>	<u>OBL</u>																	
2. <u>Juncus effusus</u>	<u>20</u>	<u>Yes</u>	<u>OBL</u>																	
3. <u>Poa palustris</u>	<u>5</u>	<u>No</u>	<u>FACW</u>																	
4. <u>Cirsium arvense</u>	<u>5</u>	<u>No</u>	<u>FACU</u>																	
5. <u>Vernonia noveboracensis</u>	<u>5</u>	<u>No</u>	<u>FACW</u>																	
6. <u>Symphyotrichum lateriflorum</u>	<u>5</u>	<u>No</u>	<u>FAC</u>																	
7. _____	_____	_____	_____																	
8. _____	_____	_____	_____																	
9. _____	_____	_____	_____																	
10. _____	_____	_____	_____																	
11. _____	_____	_____	_____																	
12. _____	_____	_____	_____																	
<u>90</u> =Total Cover																				
Woody Vine Stratum (Plot size: _____)																				
1. _____	_____	_____	_____																	
2. _____	_____	_____	_____																	
3. _____	_____	_____	_____																	
4. _____	_____	_____	_____																	
=Total Cover																				
Remarks: (Include photo numbers here or on a separate sheet.)																				

Sampling Point DP4

Northcentral and Northeast – Version 2.0

U.S. Army Corps of Engineers WETLAND DETERMINATION DATA SHEET – Northcentral and Northeast Region See ERDC/EL TR-12-1; the proponent agency is CECW-CO-R	OMB Control #: 0710-0024, Exp: 11/30/2024 Requirement Control Symbol EXEMPT: (Authority: AR 335-15, paragraph 5-2a)
--	--

Project/Site: Martin Drive Parcels City/County: City of Hudson, Summit County Sampling Date: 09/11/2023

Applicant/Owner: Prestige Homes State: OH Sampling Point: DP5

Investigator(s): Rachel Davidson Section, Township, Range: _____

Landform (hillside, terrace, etc.): _____ Local relief (concave, convex, none): Concave Slope %: _____

Subregion (LRR or MLRA): LRR R Lat: 41.232241 Long: -81.487995 Datum: _____

Soil Map Unit Name: _____ NWI classification: _____

Are climatic / hydrologic conditions on the site typical for this time of year? Yes X No _____ (If no, explain in Remarks.)

Are Vegetation N, Soil N, or Hydrology N significantly disturbed? Are "Normal Circumstances" present? Yes X No _____

Are Vegetation N, Soil N, or Hydrology N naturally problematic? (If needed, explain any answers in Remarks.)

SUMMARY OF FINDINGS – Attach site map showing sampling point locations, transects, important features, etc.

Hydrophytic Vegetation Present? Yes <u>X</u> No _____ Hydric Soil Present? Yes <u>X</u> No _____ Wetland Hydrology Present? Yes <u>X</u> No _____	Is the Sampled Area within a Wetland? Yes <u>X</u> No _____ If yes, optional Wetland Site ID: <u>Wetland C</u>
---	--

Remarks: (Explain alternative procedures here or in a separate report.)

HYDROLOGY

Wetland Hydrology Indicators: <u>Primary Indicators</u> (minimum of one is required; check all that apply) <table style="width: 100%;"> <tr> <td>☒ Surface Water (A1)</td> <td>☐ Water-Stained Leaves (B9)</td> </tr> <tr> <td>☒ High Water Table (A2)</td> <td>☐ Aquatic Fauna (B13)</td> </tr> <tr> <td>☒ Saturation (A3)</td> <td>☐ Marl Deposits (B15)</td> </tr> <tr> <td>☐ Water Marks (B1)</td> <td>☐ Hydrogen Sulfide Odor (C1)</td> </tr> <tr> <td>☐ Sediment Deposits (B2)</td> <td>☐ Oxidized Rhizospheres on Living Roots (C3)</td> </tr> <tr> <td>☐ Drift Deposits (B3)</td> <td>☐ Presence of Reduced Iron (C4)</td> </tr> <tr> <td>☐ Algal Mat or Crust (B4)</td> <td>☐ Recent Iron Reduction in Tilled Soils (C6)</td> </tr> <tr> <td>☐ Iron Deposits (B5)</td> <td>☐ Thin Muck Surface (C7)</td> </tr> <tr> <td>☐ Inundation Visible on Aerial Imagery (B7)</td> <td>☐ Other (Explain in Remarks)</td> </tr> <tr> <td>☐ Sparsely Vegetated Concave Surface (B8)</td> <td></td> </tr> </table>	☒ Surface Water (A1)	☐ Water-Stained Leaves (B9)	☒ High Water Table (A2)	☐ Aquatic Fauna (B13)	☒ Saturation (A3)	☐ Marl Deposits (B15)	☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)	☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)	☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)	☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)	☐ Iron Deposits (B5)	☐ Thin Muck Surface (C7)	☐ Inundation Visible on Aerial Imagery (B7)	☐ Other (Explain in Remarks)	☐ Sparsely Vegetated Concave Surface (B8)		<u>Secondary Indicators</u> (minimum of two required) <table style="width: 100%;"> <tr><td>☐ Surface Soil Cracks (B6)</td></tr> <tr><td>☐ Drainage Patterns (B10)</td></tr> <tr><td>☐ Moss Trim Lines (B16)</td></tr> <tr><td>☐ Dry-Season Water Table (C2)</td></tr> <tr><td>☐ Crayfish Burrows (C8)</td></tr> <tr><td>☐ Saturation Visible on Aerial Imagery (C9)</td></tr> <tr><td>☐ Stunted or Stressed Plants (D1)</td></tr> <tr><td>☐ Geomorphic Position (D2)</td></tr> <tr><td>☐ Shallow Aquitard (D3)</td></tr> <tr><td>☐ Microtopographic Relief (D4)</td></tr> <tr><td>☒ FAC-Neutral Test (D5)</td></tr> </table>	☐ Surface Soil Cracks (B6)	☐ Drainage Patterns (B10)	☐ Moss Trim Lines (B16)	☐ Dry-Season Water Table (C2)	☐ Crayfish Burrows (C8)	☐ Saturation Visible on Aerial Imagery (C9)	☐ Stunted or Stressed Plants (D1)	☐ Geomorphic Position (D2)	☐ Shallow Aquitard (D3)	☐ Microtopographic Relief (D4)	☒ FAC-Neutral Test (D5)
☒ Surface Water (A1)	☐ Water-Stained Leaves (B9)																															
☒ High Water Table (A2)	☐ Aquatic Fauna (B13)																															
☒ Saturation (A3)	☐ Marl Deposits (B15)																															
☐ Water Marks (B1)	☐ Hydrogen Sulfide Odor (C1)																															
☐ Sediment Deposits (B2)	☐ Oxidized Rhizospheres on Living Roots (C3)																															
☐ Drift Deposits (B3)	☐ Presence of Reduced Iron (C4)																															
☐ Algal Mat or Crust (B4)	☐ Recent Iron Reduction in Tilled Soils (C6)																															
☐ Iron Deposits (B5)	☐ Thin Muck Surface (C7)																															
☐ Inundation Visible on Aerial Imagery (B7)	☐ Other (Explain in Remarks)																															
☐ Sparsely Vegetated Concave Surface (B8)																																
☐ Surface Soil Cracks (B6)																																
☐ Drainage Patterns (B10)																																
☐ Moss Trim Lines (B16)																																
☐ Dry-Season Water Table (C2)																																
☐ Crayfish Burrows (C8)																																
☐ Saturation Visible on Aerial Imagery (C9)																																
☐ Stunted or Stressed Plants (D1)																																
☐ Geomorphic Position (D2)																																
☐ Shallow Aquitard (D3)																																
☐ Microtopographic Relief (D4)																																
☒ FAC-Neutral Test (D5)																																

Field Observations: Surface Water Present? Yes <u>X</u> No _____ Depth (inches): <u>1</u> Water Table Present? Yes <u>X</u> No _____ Depth (inches): <u>0</u> Saturation Present? Yes <u>X</u> No _____ Depth (inches): <u>0</u> (includes capillary fringe)	Wetland Hydrology Present? Yes <u>X</u> No _____
---	---

Describe Recorded Data (stream gauge, monitoring well, aerial photos, previous inspections), if available:

Remarks:

VEGETATION – Use scientific names of plants.

 Sampling Point: DP5

Tree Stratum (Plot size: <u>r = 30'</u>)	Absolute % Cover	Dominant Species?	Indicator Status																	
1. <u>Ulmus americana</u>	15	Yes	FACW	Dominance Test worksheet: Number of Dominant Species That Are OBL, FACW, or FAC: <u>3</u> (A) Total Number of Dominant Species Across All Strata: <u>3</u> (B) Percent of Dominant Species That Are OBL, FACW, or FAC: <u>100.0%</u> (A/B)																
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
	15	=Total Cover		Prevalence Index worksheet: <table style="width: 100%;"> <tr> <th style="width: 40%;">Total % Cover of:</th> <th style="width: 60%;">Multiply by:</th> </tr> <tr> <td>OBL species <u>50</u></td> <td>x 1 = <u>50</u></td> </tr> <tr> <td>FACW species <u>45</u></td> <td>x 2 = <u>90</u></td> </tr> <tr> <td>FAC species <u>0</u></td> <td>x 3 = <u>0</u></td> </tr> <tr> <td>FACU species <u>0</u></td> <td>x 4 = <u>0</u></td> </tr> <tr> <td>UPL species <u>0</u></td> <td>x 5 = <u>0</u></td> </tr> <tr> <td>Column Totals: <u>95</u></td> <td>(A) <u>140</u> (B)</td> </tr> <tr> <td colspan="2" style="text-align: center;">Prevalence Index = B/A = <u>1.47</u></td> </tr> </table>	Total % Cover of:	Multiply by:	OBL species <u>50</u>	x 1 = <u>50</u>	FACW species <u>45</u>	x 2 = <u>90</u>	FAC species <u>0</u>	x 3 = <u>0</u>	FACU species <u>0</u>	x 4 = <u>0</u>	UPL species <u>0</u>	x 5 = <u>0</u>	Column Totals: <u>95</u>	(A) <u>140</u> (B)	Prevalence Index = B/A = <u>1.47</u>	
Total % Cover of:	Multiply by:																			
OBL species <u>50</u>	x 1 = <u>50</u>																			
FACW species <u>45</u>	x 2 = <u>90</u>																			
FAC species <u>0</u>	x 3 = <u>0</u>																			
FACU species <u>0</u>	x 4 = <u>0</u>																			
UPL species <u>0</u>	x 5 = <u>0</u>																			
Column Totals: <u>95</u>	(A) <u>140</u> (B)																			
Prevalence Index = B/A = <u>1.47</u>																				
Sapling/Shrub Stratum (Plot size: _____)																				
1. _____																				
2. _____																				
3. _____																				
4. _____																				
5. _____																				
6. _____																				
7. _____																				
		=Total Cover																		
Herb Stratum (Plot size: <u>r = 5'</u>)																				
1. <u>Leersia oryzoides</u>	35	Yes	OBL	Hydrophytic Vegetation Indicators: <u>1</u> - Rapid Test for Hydrophytic Vegetation ☒ <u>2</u> - Dominance Test is >50% ☒ <u>3</u> - Prevalence Index is ≤3.0 ¹ <u>4</u> - Morphological Adaptations ¹ (Provide supporting data in Remarks or on a separate sheet) <u> </u> Problematic Hydrophytic Vegetation ¹ (Explain) ¹ Indicators of hydric soil and wetland hydrology must be present, unless disturbed or problematic.																
2. <u>Phragmites australis</u>	30	Yes	FACW																	
3. <u>Schoenoplectus tabernaemontani</u>	5	No	OBL																	
4. <u>Eleocharis obtusa</u>	5	No	OBL																	
5. <u>Typha angustifolia</u>	5	No	OBL																	
6. _____																				
7. _____																				
8. _____																				
9. _____																				
10. _____																				
11. _____																				
12. _____																				
	80	=Total Cover																		
Woody Vine Stratum (Plot size: _____)																				
1. _____																				
2. _____																				
3. _____																				
4. _____																				
		=Total Cover																		
Remarks: (Include photo numbers here or on a separate sheet.)																				

SOIL

Sampling Point	DP5
----------------	-----

[illegible]



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

May 7, 2025

Regulatory Branch

SUBJECT: Department of the Army Permit No. LRB-2016-01284, Nationwide Permit No. 39

Chris Brown
Prestige Homes, Inc.
4301 Darrow Road, Suite 2500
Stow, Ohio 44224

Dear Mr. Chris Brown

This pertains to your application for a Department of the Army permit to maintain the fill previously placed in 0.076-acres of wetland and to place fill into 0.23-acre of wetlands in association with development of 10,000-square foot commercial learning center with attendant features to include retention pond, 5010-square foot playground and parking facilities (Sheet 1 to 23 of 23). The project is located at 802 W Streetsboro St, Hudson, Ohio 44236 (41.232307, - 81.487087).

I have evaluated the impacts associated with your proposal, and have concluded that they are authorized by the enclosed Nationwide Permit (NWP) provided that the attached conditions are satisfied.

Verification of the applicability of this NWP is valid until March 14, 2026, unless the NWP is modified, suspended, revoked, or the activity complies with any subsequent permit modification. Please note in accordance with 33 CFR part 330.6(b), that if you commence or are under contract to commence an activity in reliance of the permit prior to the date this Nationwide permit expires, is suspended or revoked, or is modified such that the activity no longer complies with the terms and conditions, you have twelve months from the date of permit modification, expiration, or revocation to complete the activity under the present terms and conditions of the permit, unless the permit has been subject to the provisions of discretionary authority.

It is your responsibility to remain informed of changes to the NWP program. A public notice announcing any changes will be issued when they occur and will be available for viewing at our website: <http://www.lrb.usace.army.mil/Missions/Regulatory.aspx>. Finally, note that if your activity is not undertaken within the defined period or the project specifications have changed, you must immediately notify this office to determine the need for further approval or reevaluation.

In addition to the general conditions attached to the NWP, your attention is directed to the following Special Conditions which are also appended at the end of the NWP General Conditions:

Regulatory Branch

SUBJECT: Department of the Army Permit No. LRB-2016-01284, Nationwide Permit No. 39

1. The permittee must notify the Regulatory Branch, in writing, at least one day prior to the date the activities authorized in Waters of the United States, including wetlands, are scheduled to begin. Notification shall either be by: 1) e-mail sent to LRB.Regulatory.PermitCompliance@usace.army.mil; or 2) mailed to the following address: Regulatory Branch, U.S. Army Corps of Engineers, Buffalo District, 478 Main Street, Buffalo, New York 14202.
2. As mitigation for the permanent and unavoidable loss of 0.306-acres of wetlands, the permittee must purchase 0.3-wetland credits from the Wetlands Resource Center - Congress Lake Wetland Mitigation Bank. Prior to commencing the work associated with this permit authorization, the permittee must supply this office with a copy of the executed mitigation agreement and verification of the transfer of funds to the Congress Lake Wetland Mitigation Bank. The executed agreement and verification of funds must be sent to the attention of Samantha Knapp at Samantha.m.knapp@usace.army.mil.
3. As partial compensatory mitigation for impacts to 0.306-acre of non-forested and forested wetlands, the permittee placed a Conservation Easement held by a conservation-oriented 3rd party organization, West Creek Conservancy, on the Chippewa Creek Headwaters Preservation area, which includes 4.82 acres of Category 3 wetland as identified on Sheet 23 of 23, to guarantee its preservation for aquatic resources in-perpetuity. The easement was executed and recorded with the Summit County Recorder of Records for the preservation of aquatic resources as mitigation for the authorized work prior to conducting work authorized by this permit. The restrictions contained in the easement specifically states that the preservation area must not be adversely impacted by construction or structural modifications.
4. The permittee must continue to ensure none of the following activities occur at the mitigation area(s): filling, excavating, dredging, mining or drilling, use of ATVs or other recreational motorized vehicles, removal of topsoil, sand, gravel, rock, minerals, or other materials, nor any building of roads or change in topography of the land in any manner (with the exception of the maintenance of small foot trails), construction or placement of buildings, camping accommodations or mobile homes, fences, signs, billboards or other advertising material, or other structures. There shall be no removal, destruction, or cutting of vegetation, spraying with herbicides, grazing of domestic animals, or disturbance or manipulation of the mitigation area without first obtaining Department of the Army authorization. Control of nuisance vegetation, or any other manipulation within the mitigation areas, shall only occur after Corps of Engineers concurrence that such management practices are necessary to ensure the long-term success of the mitigation program.
5. To reduce any potential adverse effects on the federally-endangered Indiana bat (*Myotis sodalis*) and the proposed endangered Tricolored Bat (*Perimyotis subflavus*), trees

Regulatory Branch

SUBJECT: Department of the Army Permit No. LRB-2016-01284, Nationwide Permit No. 39

(woody stems greater than 3 inches diameter breast height) must not be cut between April 1 and September 30 of any year.

6. At the request of an authorized representative of the Buffalo District, U.S. Army Corps of Engineers, the permittee must allow access to the project site to determine compliance with the conditions of this permit.

This affirmation is limited to the attached NWP and associated Water Quality Certification, and does not obviate the need to obtain any other project specific Federal, state, or local authorization.

Additionally, I have reviewed the aquatic resource delineation map you submitted for your request for a preliminary jurisdictional determination (JD) for the parcel located at 802 W Streetsboro Street, in the City of Hudson, Summit County, Ohio.

Based upon my review of the submitted delineation, I have determined that the aquatic resource boundaries shown on the map accurately represent on-site conditions. Please note that this is a preliminary JD. Preliminary JDs are non-binding written indications that there may be waters of the United States (WOUS) on your parcel and approximate locations of those waters. Preliminary JDs are advisory in nature and may not be appealed.

I have enclosed the preliminary JD Form with this letter. The form and attached table identify the extent of aquatic resources on the site and specific terms and conditions of the preliminary JD. Please sign and return a copy of this form to my attention so that I may complete my evaluation of your file. If you do not respond within 15 days, I will presume concurrence and no additional follow-up is necessary prior to finalizing this action.

In accordance with Regulatory Guidance Letter 05-02, "Preliminary jurisdictional determinations are not definitive determinations of areas within regulatory jurisdiction and do not have expirations dates." However, I strongly recommend that the boundaries of all aquatic resources on the parcel be re-evaluated by a qualified wetland biologist after five years of the date of this letter. This will ensure that any changes are appropriately identified and you do not inadvertently incur a violation of Federal law while constructing your project or working on your project site.

Lastly, 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 particular site 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 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.

Regulatory Branch

SUBJECT: Department of the Army Permit No. LRB-2016-01284, Nationwide Permit No. 39

A copy of this letter has been sent to the Ohio Environmental Protection Agency and Ben Latoche of HZW Environmental Consultants, LLC.

Questions pertaining to this matter should be directed to me at (716) 879-4467, by writing to the following address: U.S. Army Corps of Engineers, 3869 Darrow Rd., Suite 100, Stow, Ohio 44224, or by e-mail at: Samantha.M.Knapp@usace.army.mil.

Sincerely,

A handwritten signature in black ink that reads "Samantha Knapp". The signature is written in a cursive style with a large, stylized 'S' and 'K'.

Samantha Knapp
Biologist

Enclosures

COMPLETION FORM / COMPLIANCE CERTIFICATION

Each permittee who receives a Nationwide Permit (NWP) verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and any compensatory mitigation.

APPLICANT:

Chris Brown
Prestige Homes, Inc.
4301 Darrow Road, Suite 2500
Stow, Ohio 44224

POINT OF CONTACT:

Ben Latoche, HZW
Environmental Consultants,
6105 Heisley Road,
Mentor, Ohio 44060

File No.: LRB-2016-01284

File Closed: May 7, 2025

NWP No.: **39**

Upon completion of the activity authorized by this permit and any required compensatory mitigation sign this certification and return it to the address listed below within 30 days of project completion.

Please note that your permitted activity is subject to a compliance inspection by a U.S. Army Corps of Engineers representative. If you fail to comply with this permit you are subject to permit suspension, modification, revocation, and/or assessment of administrative penalties.

The permittee shall certify the completion of the authorized work and mitigation:

- a. The authorized work was done in accordance with the NWP authorization, including any general, regional, or activity specific conditions.
- b. The implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, this certification must include the documentation required by 33 CFR 332.3(1)(3) to confirm that the permittee secured the appropriate number and resource type of credits.

Date

Permittee Telephone Number: _____

Project location: 802 W Streetsboro St, Hudson, Summit County, Ohio (41.232307, -81.487087)

Project Description: 10,000-square foot commercial learning center with attendant features to include retention pond, 5010-square foot playground and parking facilities

Authorized Impacts (Waters of the U.S. Impacted by Project): 0.306-acres (includes 0.076-acres already filled)

Waterway and/or Project Setting: Wetlands A, B, C and D

Return completed form to: LRB.Regulatory.PermitCompliance@usace.army.mil (Preferred)

Or Mail to: Compliance Coordinator

Regulatory Branch

U.S. Army Corps of Engineers

478 Main Street

Buffalo, NY 14207

U.S. Army Corps of Engineers (USACE) NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL		Form Approved - OMB No. 0710-0003 Expires 2027-10-31
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.		
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: Chris Brown, Prestige Homes, Inc	File Number: LRB-2016-01284	Date: 2025-05-07
Documents Attached (<i>select all that apply</i>):		Form Reference Section:
☐	INITIAL PROFFERED PERMIT (<i>Standard Permit or Letter of Permission</i>)	A
☐	PROFFERED PERMIT (<i>Standard Permit or Letter of Permission</i>)	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: <i>You may accept or object to the permit</i> 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:	Samantha Knapp	Name:	Katherine McCafferty, Administrative Appeals Officer
Street Address, City, State:	USACE Buffalo District, Stow Field Office 3869 Darrow Rd., Suite 100 Stow, Ohio 44224	Street Address, City, State:	USACE, Great Lakes & Ohio River Division 550 Main Street, Room 10-780, CELRD-PD-O Cincinnati, Ohio 45202-3222
Phone:	716-879-4467	Phone:	513-310-4196
Email:	samantha.m.knapp@usace.army.mil	Email:	katherine.a.mccafferty@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

U.S. Army Corps of Engineers (USACE)
PRELIMINARY JURISDICTIONAL DETERMINATION (PJD)
For use of this form, see Sec 404 CWA, Sec 10 RHA, Sec 103 MPRSA;
the proponent agency is CECW-COR.

Form Approved -
OMB No. 0710-0024
Expires 2027-09-30

DATA REQUIRED BY THE PRIVACY ACT OF 1974

Authority Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Program of the U.S. Army Corps of Engineers; Final Rule for 33 CFR Parts 320-332.

Principal Purpose This form is used by USACE staff in evaluating your request to determine whether there are any aquatic resources within the review area that may be subject to federal jurisdiction under the regulatory authorities referenced above.

Routine Uses This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public notice or FOIA request as required by federal law. Your name and property location where federal jurisdiction is to be determined will be included in any resulting jurisdictional determination (JD), which may be made available to the public on the District's website and/or on the Headquarters USACE website.

Disclosure Submission of requested information is voluntary; however, if information is not provided, the request for a JD cannot be evaluated nor can a PJD be issued.

The Agency Disclosure Notice (ADN)

The public reporting burden for this collection of information, 0710-0024, is estimated to average 25 minutes per response, including the 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.

SECTION I - BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 2025-04-07

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:
Prestige Homes, Inc., 17 W Streetsboro Street, Hudson, Ohio 44236

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:
Buffalo District, Prestige Homes Inc., LRB-2016-01284

D. PROJECT LOCATION AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: Ohio County/Parish/Borough: Summit City: Hudson

Center coordinates of site (lat/long in degree decimal format): Latitude: 41.232307 ° Longitude: -81.48708 °

Universal Transverse Mercator: 17

Name of nearest waterbody: Mud Brook

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

☒ Office (Desk) Determination. Date: 2025-04-02

☐ Field Determination

Date(s): _____

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

	Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. non-wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
	Wetland A	41.231473	-81.487493	0.05-acres	PFO	Section 404

	Site Number	Latitude (<i>decimal degrees</i>)	Longitude (<i>decimal degrees</i>)	Estimated amount of aquatic resource in review area (<i>acreage and linear feet, if applicable</i>)	Type of aquatic resource (<i>i.e., wetland vs. non-wetland waters</i>)	Geographic authority to which the aquatic resource "may be" subject (<i>i.e., Section 404 or Section 10/404</i>)
	Wetland A	41.231473	-81.487493	0.10-acres	PEM	Section 404
	Wetland B	41.232294	-81.487412	0.03-acres	PEM	Section 404
	Wetland C	41.232420	-81.488033	0.05-acres	PEM	Section 404

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.

2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "preconstruction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD or no JD whatsoever, which do not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the USACE has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD or reliance on no JD whatsoever; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of USACE permit authorization based on a PJD or no JD whatsoever constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the USACE will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

F. SUPPORTING DATA. Data reviewed for PJD (*check all that apply*)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

☒ Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:

Map: Aquatic Resources Map Figure 3B

☒ Data sheets prepared/submitted by or on behalf of the PJD requestor.

☒ Office concurs with data sheets/delineation report.

☐ Office does not concur with data sheets/delineation report.

Rationale: _____

☐ Data sheets prepared by the USACE:

☐ Corps navigable waters' study:

☐ U.S. Geological Survey Hydrologic Atlas:

- ☒ USGS NHD data.
- ☒ USGS 8 and 12 digit HUC maps.
- ☒ U.S. Geological Survey map(s). Cite scale & quad name:
USGS 1:24K Quad: Hudson

☒ USDA Natural Resources Conservation Service Soil Survey.
Citation: USDA Web Soil Survey <https://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>

☒ National Wetlands Inventory map(s).
Cite Name: USFWS NWI 4-7-2025 <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/>

☐ State/Local Wetland Inventory map(s):

☒ FEMA/FIRM maps:
National Flood Hazard Layer FIRMette, Pg 180 of 180 of submitted aquatic resource report dated 2/7/25

☐ 100-year Floodplain Elevation is: _____ . (National Geodetic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (*Name & Date*): Aquatic Resources Map Figure 3B, Connect Explorer, 5/11/19, 4/17/17, 4/24/07
or ☒ Other (*Name & Date*): Applicants submitted aquatic resource report dated 2/7/25 (Appendix B pg. 79-84)

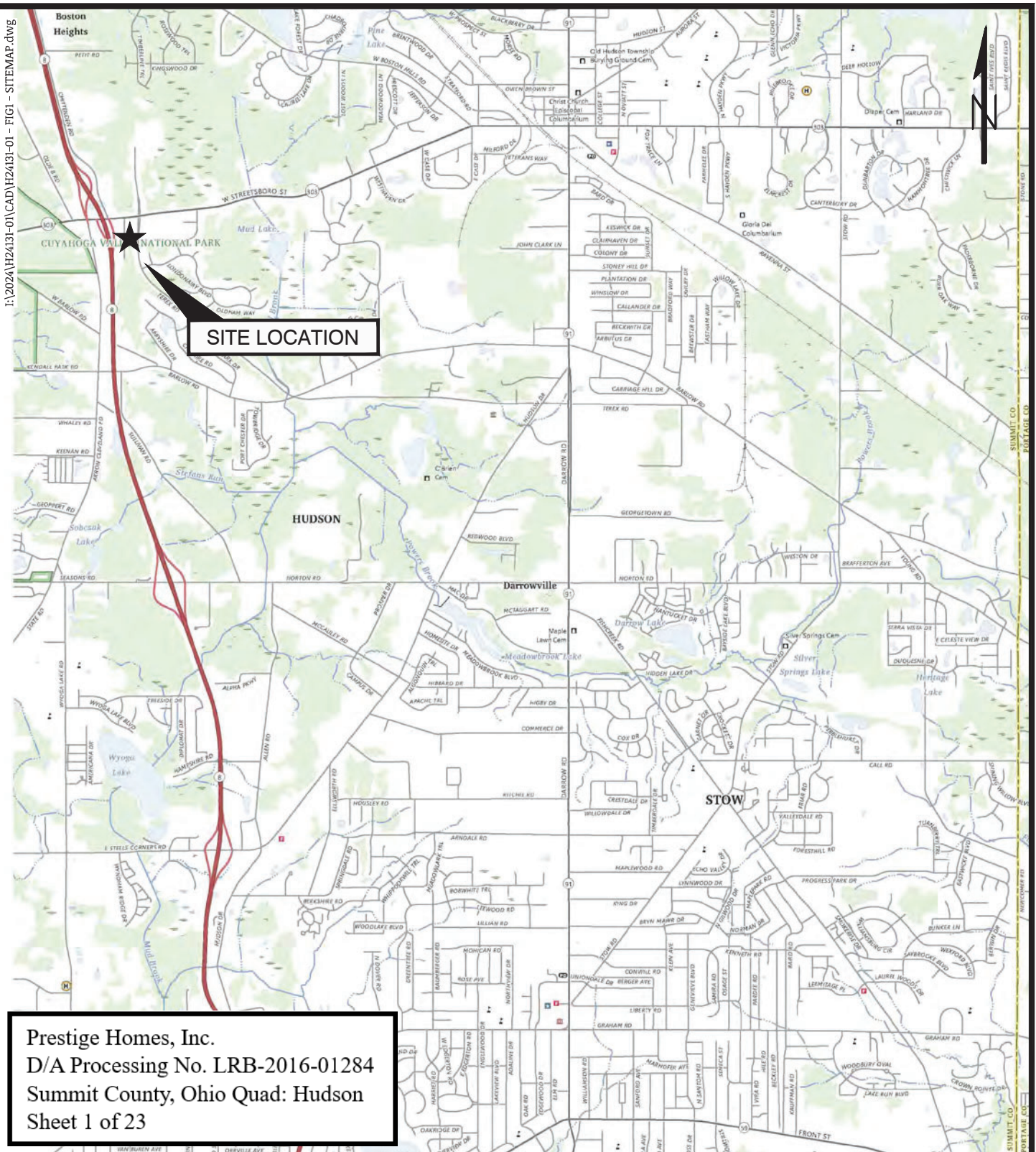
☒ Previous determination(s). File no. and date of response letter:
LRB-2016-01284, OCT-12-2018

☐ Other information (*please specify*):

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the USACE and should not be relied upon for later jurisdictional determinations.

Name of Regulatory Staff Member Completing PJD Samantha Knapp	Date 2025-04-07	Signature of Regulatory Staff Member Completing PJD KNAPP.SAMANTHA.MARIE.1617291130 Digitally signed by KNAPP.SAMANTHA.MARIE.1617291130 Date: 2025.05.07 14:23:27 -04'00'
Name of Person Requesting PJD	Date	Signature of Person Requesting PJD (<i>REQUIRED, unless obtaining the Signature is Impracticable</i>)

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.



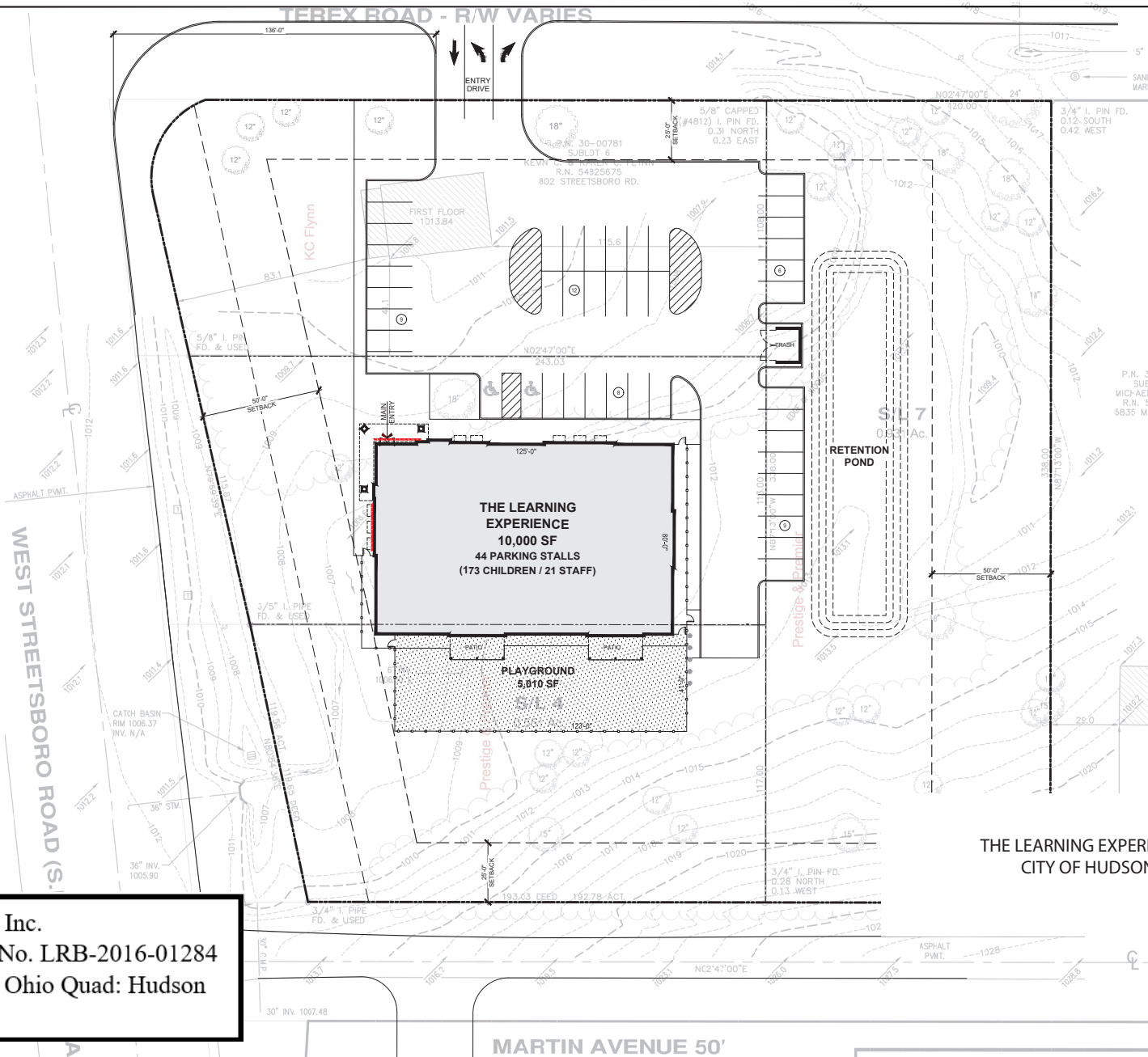
HZW Environmental
Consultants

PCN FIGURE 1
SITE LOCATION MAP
THE LEARNING EXPERIENCE - HUDSON CAMPUS
CITY OF HUDSON, SUMMIT COUNTY, OHIO



HZW Environmental
Consultants

FIGURE 3B
AQUATIC RESOURCES MAP (AERIAL)
PARCEL NUMBERS 300 -0781, -1893, -1894, & -3087
CITY OF HUDSON, SUMMIT COUNTY, OHIO



PCN FIGURE 2
PLAN VIEW IMPACT MAP
THE LEARNING EXPERIENCE - HUDSON CAMPUS
CITY OF HUDSON, SUMMIT COUNTY, OHIO

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 3 of 23

1 SITE TEST FIT PLAN

[illegible]

25.###
PROJECT NUMBER
BDG
DRAWN BY
SAB



PRELIMINARY

NOT FOR

BIDDING OR

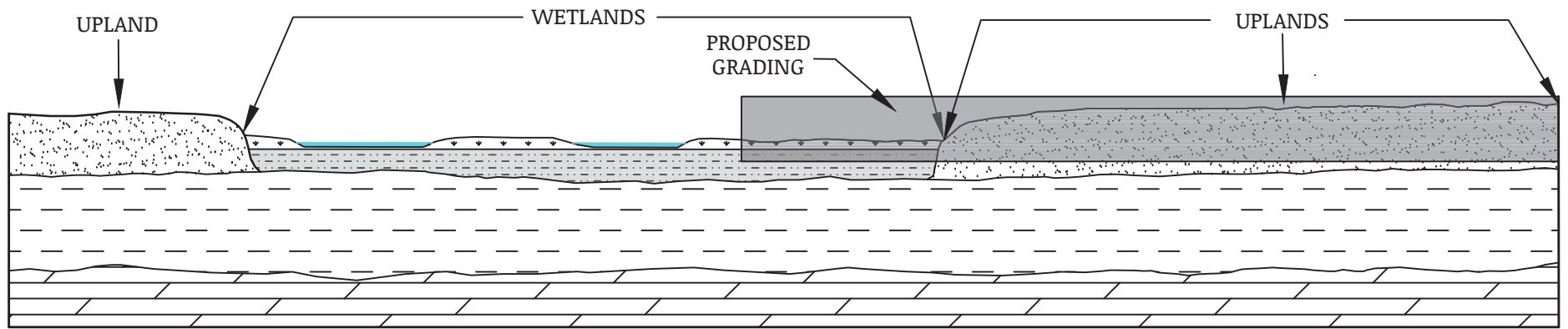
CONSTRUCTION

SITE TEST F

PCN

SECTION - WETLAND

W. SUMMIT COUNTY



NOT TO SCALE

LEGEND

	HYDRIC SOIL		BEDROCK
	HYDRIC SOIL		PROPOSED GRADING
	UPLAND SOIL		OPEN WATER
	AQUATARD		



Mailing Address
P.O. Box 347113
Cleveland, OH 44134
T: 216-749-3720
F: 216-749-3730

Office Location
7381 Camelot Drive
Parma, OH 44134

www.westcreek.org

September 18, 2024

Elaine Brunner
Prestige Homes
4301 Darrow Road Suite 2500
Stow, Ohio. 44223

RE: Mitigation Payment

Dear Ms. Brunner,

Please accept this letter confirming payment made to West Creek Conservancy on 10/16/18, Check # 125965 for \$45,000 with respect to the USACE Permit No. 2016-01284, Nationwide Permit No. 39.

Should you require any additional information, please contact me at 440-915-2940 or dschafer@westcreek.org.

Cheers,

Derek Schafer
Executive Director

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 5 of 23

CUYAHOGA COUNTY
OFFICE OF FISCAL OFFICER - 18
DEEA 1/19/2021 3:02:28 PM
202101190479

TRANSFER NOT REQUIRED

JAN 19 ~~2020~~ 2021

CUYAHOGA COUNTY FISCAL OFFICE

GRANT OF CONSERVATION EASEMENT

This Grant of a Conservation Easement is made by the City of North Royalton, whose mailing address is 14600 State Road, North Royalton, Ohio 44133 ("**Grantor**") to West Creek Conservancy, whose mailing address is P.O. Box 347113, Parma, Ohio 44134 ("**Grantee**").

Recitals:

A. Grantor is the owner in fee simple of certain real property situated in the City of North Royalton, County of Cuyahoga, State of Ohio, being Permanent Parcel Nos. 488-08-003 and 488-08-004 and depicted on Exhibit A attached hereto ("**Grantor's Property**").

B. A substantial portion of Grantor's Property depicted on Exhibit A attached hereto and legally described on Exhibit B ("**Protected Parcel**") has substantial value as a scenic, natural, aesthetic, and educational resource in its present state as a natural, scenic, wooded and riparian area, constituting a natural habitat for plants and wildlife (collectively, "**Conservation Values**").

C. The U.S. Army Corps of Engineers ("**USACE**") has issued that certain Permit # 2010-01284 dated 1-6-2017 ("**Permit**"), pertaining to a certain development project located in Ohio. The Permit requires compliance with the mitigation requirements described in the Permit for the preservation of the Protected Parcel in perpetuity pursuant to a conservation easement, as a condition of the Permit, which

CHICAGO TITLE Ins. Co.

Order # 202101190479 Escrow BB

Prestige Homes, Inc.

D/A Processing No. LRB-2016-01284

Summit County, Ohio Quad: Hudson

Sheet 6 of 23

will require that the Protected Parcel be utilized for "park and natural conservation" purposes only.

C. To achieve the common purpose of conserving the Conservation Values of the Protected Parcel, and prevent the use or development of the Protected Parcel for any purpose or in any manner that would conflict with the maintenance of the Conservation Values of the Protected Parcel, Grantor shall convey to Grantee a conservation easement encumbering the Protected Parcel upon the terms and conditions hereinafter set forth ("**Conservation Easement**").

D. "Ecological, scientific, educational, and aesthetic value", "natural, scenic and open condition" and "Conservation Values" as used herein shall, without limiting the generality of the terms, mean a condition that is no less natural than the condition of the Protected Parcel at the time of this Grant, "natural" meaning that native plants and wildlife are permitted to carry out their life cycles without undue human interference.

E. The Conservation Easement shall preserve and protect the Conservation Values of the Protected Parcel in perpetuity so as to prevent or remedy subsequent activities or uses that are inconsistent with the terms of the Conservation Easement; and Grantee by accepting the Conservation Easement intends to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Protected Parcel according to the terms of the Conservation Easement.

F. The purpose of this Conservation Easement is to assure that the Protected Parcel will be retained and forever preserved in its natural, forested and/or aquatic condition, as a habitat for plants and wildlife, a protected water resource and as a buffer zone for the streams, if any, contained within it.

G. Grantor and Grantee intend that this Conservation Easement shall be a "conservation easement" as defined in Section 5301.67 of the Ohio Revised Code; and

H. Grantee is willing to accept this Conservation Easement, subject to the reservations and to the terms and conditions and obligations set out herein and imposed hereby.

NOW, THEREFORE, for and in consideration of the premises and the foregoing recitations, and for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual promises, covenants, terms, conditions, and restrictions hereinafter set forth, Grantor does hereby grant, give, and convey unto Grantee, its successors and assigns, forever and in perpetuity, a Conservation Easement of the nature and character and to the extent hereinafter set forth, in, upon, and over the Protected Parcel, for the purposes of preserving, protecting, and maintaining the Conservation Values of the Protected Parcel as a natural, scenic, open, wooded and/or wetland or riparian area, as habitat for plants, wildlife, and together with the right of access, and of visual access to and view of the Protected Parcel in its natural, scenic and open condition.

**THE TERMS, CONDITIONS, AND RESTRICTIONS OF THE
CONSERVATION EASEMENT ARE AS HEREINAFTER SET FORTH:**

I. Rights and Responsibilities of Grantor

Grantor agrees as follows:

1. Except as otherwise herein provided, the Protected Parcel shall remain in its natural condition and be managed in a manner consistent with its preservation as a natural, scenic, open, wooded and/or wetland or riparian area. Each and every other activity or construction that might endanger the Conservation Values of the Protected Parcel is forbidden unless necessary to the primary use of the parcel. Without limiting the generality of the foregoing, it is Grantor's intent that this Conservation Easement prohibit commercial, industrial, or residential use of the Protected Parcel.
2. There shall be no activities or uses detrimental to water purity on the Protected Parcel and no alteration or manipulation of the natural water courses, streams, gorges, marshes, wetlands, ponds or other water bodies by draining, filling, dredging, diking or otherwise except in accordance with generally accepted conservation procedures designed to enhance wetland and water course attributes and except as may be necessary to (i) prevent or halt soil erosion, soil slippage, and damage from erosion or (ii) maintain, repair or remove existing small dams and ponds.
3. No roads, buildings or other structures of any kind, camping accommodations, or mobile homes, shall be hereafter erected or placed on the Protected Parcel except as herein described. No fences shall be hereafter erected on the Protected Parcel, except that any existing fences may be maintained, repaired, replaced or removed as needed, and except that fences may be installed, upon consent of Grantee, along the Protected Parcel boundary or around special preserved or restricted areas for

ecological and conservation purposes, provided that any fence or fence maintenance does not impede stream and water flow and further provided that such installation or maintenance shall be performed with minimal disturbance to vegetation within the easement. The area needed to install or repair such fences shall be the minimum necessary to accomplish the task as agreed upon in writing by the Grantor and Grantee. Upon completion, the area shall be restored to its previous state or as near as practical.

4. There shall be no dumping of soil, trash, ashes, garbage, waste, or other unsightly or offensive material, or any placement of underground storage tanks, on or in the Protected Parcel, and no changing of its topography through the placing of soil or other substance or material such as land fill or dredging spoils on the Protected Parcel except in accordance with accepted conservation procedures designed to enhance wetland and/or water course attributes. All trash or nonconforming material that is dumped or placed on the Protected Parcel shall be removed from the Protected Parcel by the person or entity performing the dumping within 30 days of first being found.

5. There shall be no future fillings, excavations, dredging, mining, drilling, removal of soil, clay, sand, gravel, rock, minerals or other inorganic and natural organic materials or other changes in the general topography, of the on surface or subsurface of the Protected Parcel in any manner except as may be required in the course of any activity permitted herein and in accordance with generally accepted conservation procedures excepting what is necessary for the maintenance of foot trails, and that caused by the forces of nature. Without limiting the foregoing, there shall be no future drilling for oil or gas or similar substances, nor shall the Protected Parcel be used as part of any drilling unit for oil and gas production.

6. No future power lines, transmission lines, or communications towers may be erected. No future interests in the Protected Parcel shall be granted for such purposes. It is the intent of this provision to grant to the Grantee such an interest in the Protected Parcel as is sufficient to prohibit the exercise of the power of eminent domain by public utility companies and any other body or person. Grantor reserves the right to maintain and repair existing telephone, electric, sewer, stormwater, water, wells, or other utility lines or mains needed to provide for the needs of Grantor, Grantor's successors or assigns. The area needed to repair such facilities shall be the minimum necessary to accomplish the task as agreed upon in writing by Grantor and Grantee. Upon completion, the disturbed area shall be restored at Grantor's expense to its previous state or as near as practical.

7. There shall be no use or activity that causes or is likely to cause significant soil degradation or erosion or significant pollution of any surface or subsurface. Nor shall

there be actions or uses detrimental or adverse to water conservation and purity, and fish, wildlife or habitat preservation on the Protected Parcel.

8. There shall be no removal or destruction of native growth, nor the cutting of trees, shrubs, or other vegetation on the Protected Parcel except in accordance with accepted conservation procedures designed to enhance natural areas, wetland and/or water course attributes. Nor shall there be any use of fertilizers, spraying with biocides, introduction of nonnative animals, grazing of domestic animals or disturbance or change in the natural habitat on the Protected Parcel except in accordance with applicable laws, good husbandry practices, the Management Plan (hereafter defined) and enhancement of wildlife habitats. Notwithstanding the foregoing, vegetation on the Protected Parcel may be managed as may be necessary for:

- A. the control or prevention of imminent hazard, disease or fire and to restore natural habitat areas to promote native vegetation except for the blocking of streams;
- B. the removal and clearing of diseased, dying, damaged, destroyed or fallen trees, shrubs, or other vegetation which can be cut and left lying in place except for blocking streams provided however that diseased trees and vegetation which are cut may be removed from the site in order to prevent the spread of the disease;
- C. the elimination and removal of grapevines, poison ivy, invasive species and other toxic and undesirable growth which can be cut and left lying in place except for blocking streams;
- D. environmental study or evaluation and/or wildlife habitat enhancement;
and
- E. the maintenance of any utilities or facilities that exist as of the date of the recording of this Conservation Easement.

9. There shall be no operation of automobiles, trucks, snowmobiles, dune buggies, motorcycles, all-terrain vehicles, or any recreational motorized vehicles on the Protected Parcel except for police cars, emergency vehicles, and equipment necessary to accomplish the installation, maintenance or repair activities allowed herein.

10. There shall be no hunting or trapping on the Protected Parcel, except to the extent specifically approved of in advance by Grantee as necessary to keep the animal population within the numbers consistent with the ecological balance of the area.

11. No signs or advertising of any kind or nature shall be located on the Protected Parcel except for:

- A. Signs stating the name and address of the Protected Parcel or marking the entrances, directions and boundaries of the Protected Parcel. Grantee shall have the right to post or clearly mark the boundaries of the Protected Parcel in compliance with Grantee's policies and post signs which indicate that it is burdened by a conservation easement in favor of Grantee.
- B. Grantee shall have the right to post signage recognizing funding sources and grants that were used in the acquisition, enhancement, and/or protection of the Protected Parcel or easement as well as signs, memorials, monuments and other similar signs to promote the Protected Parcel and educational or environmental activities thereon.
- C. Grantee may erect signs on the Protected Parcel to warn the visitors of hazards (if any), and to notify visitors of prohibited activities.

12. Grantor expressly reserves for itself, its successors, and assigns, the right to use the Protected Parcel for all purposes consistent with this Conservation Easement.

13. Grantor agrees to manage the Protected Parcel for public park and natural area conservation purposes consistent with this Conservation Easement Agreement and allow public access to the Protected Parcel during hours of operation typical of area parks. Grantee shall have the right to conduct tours, interpretive programs, and educational activities on the Protected Parcel and to erect, maintain and/or replace the elevated walkway.

14. Grantor and/or Grantee, and their respective successors, and assigns, shall each have the right to construct or maintain unpaved foot trails on the Protected Parcel. These are to be installed with minimal impact to the environment and streams and require prior approval of USACE. The trails, including their design, location, and operation, will be in compliance with the conservation easement and additionally approved by Grantee.

15. Grantor and Grantee shall have the right to construct and maintain interpretive displays and signage. These are to be installed with minimal impact to the environment and streams and will be in compliance with a Management Plan approved by Grantee.

16. Grantor and Grantee, shall have the right to construct stream and wetland enhancement and/or restoration projects that prevent soil erosion, result in improved stream water quality, and enhance wildlife habitat. Such projects must be in compliance with the conservation easement, approved in advance by Grantee and USACE to determine if additional permit authorization is necessary. Grantor shall grant, give, and convey the right to Grantee to install scientific equipment necessary to monitor, study, test, record and produce data or other information relating to environmental conditions, wildlife habitat, and water quality.

17. Grantor shall adopt a management plan for the care and maintenance of the Protected Parcel in accordance with the terms and conditions of this conservation easement ("Management Plan"). The Management Plan, and any future updates to said Management Plan, will be subject to the review and approval of Grantee.

18. The Protected Parcel shall not be platted or subdivided or otherwise divided, conveyed, or transferred in more than one single parcel.

II. Perpetual Restrictions

The restrictions set forth in this Conservation Easement shall be perpetual and shall run with the land for the benefit of, and shall be enforceable by Grantee.

III. Present Conveyance of Real Property Interest

This Conservation Easement constitutes a real property interest immediately vested in the Grantee.

IV. Future Conveyances by Grantor

Grantor agrees that the terms, conditions, restrictions, and purposes of this Conservation Easement will be incorporated by reference in any subsequent deed, or other legal instrument, by which Grantor divests itself of either the fee simple title to, or of its possessory interest in, the Protected Parcel.

V. Amendments of This Grant

This Grant may be amended or terminated only with the written consent of Grantee and USACE and Grantee's compliance with the 60-day advance notice requirement of Mitigation Rule Section 332.7(a)(3).

VI. Remediation

In the event a violation of these terms, conditions, or restrictions is found to exist, Grantee may, after notice to Grantor, institute an action to enjoin by *ex parte*, temporary, and/or permanent injunction such violation, to require the restoration of the Protected Parcel to its prior conditions, and/or for damages for breach of covenant. Nothing herein shall be construed to entitle Grantee to institute any enforcement proceedings against Grantor for any changes to the Protected Parcel due to causes beyond the Grantor's control, such as changes caused by natural fire, floods, storm, or unauthorized wrongful acts of third persons.

VII. Releases of Certain Substances

If, at any time, there occurs, or has occurred, a release in, on, or about the Protected Parcel of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating to the air, water, soil, flora or fauna in any way harmful or threatening to human health or the environment, Grantor shall take all steps necessary to assure its containment and remediation, including any cleanup that may be required. Save and except for any such experience due to a spill or discharge from the existing gas and oil well on the property which will be the responsibility of the offender.

VIII. Right of Inspection and Access

Grantee, or its duly authorized representative, may enter the Protected Parcel at any time on any day for inspection and/or annual monitoring purposes. Grantor shall allow access across any of Grantor's adjacent properties if access from a public street to the Protected Parcel is for any reason unavailable.

IX. Grantee's Rights and Remedies

In order to accomplish the purposes of this Conservation Easement, the following rights and remedies are conveyed to Grantee, so that Grantee may: (1) preserve and protect the Conservation Values of the Protected Parcel, (2) prevent any

activity on or use of the Protected Parcel which is inconsistent with the purposes of this Conservation Easement, and (3) require the restoration of any areas of the Protected Parcel that may be damaged by any unauthorized activity or use.

To accomplish the purposes of this Conservation Easement, Grantee, its employees, representatives, and agents, shall be entitled to enter in, upon, and over the entire Protected Parcel at any reasonable time and from time to time, (a) for conservation, educational and interpretive activities, (b) to monitor Grantor's compliance with and otherwise to enforce, the terms, conditions, and restrictions of this Conservation Easement, (c) to prevent any activity or use that is inconsistent with the purposes of this Conservation Easement, (d) to require or effect restoration of such areas or features of the Protected Parcel that may be or have been damaged, and (e) to oversee Grantor's habitat and other management activities (collectively, "**Conservation Activities**"). In order to preserve, protect and enhance the Conservation Values of the Protected Parcel, Grantee shall have the right to manage the Protected Parcel by performing any of the following including, but not limited to:

- i. planting trees, shrubs, and perennial and/or annual plants;
- ii. removing nuisance and/or non-native flora and fauna by any lawful means;
- iii. placing nesting structures for waterfowl and other birds;
- iv. trimming, cutting, and/or removing plants to improve habitat potential for fish, plants, and wildlife;
- v. restoring wetlands, "prairie lands" and other endangered habitats that have been previously disturbed, which restoration may require, without limitation, manipulation or alteration of natural water courses, lake shores, marshes, or other water bodies;
- vi. performing any and all maintenance or repair activities;
- vii. conducting biological or water quality surveys and installing scientific instrumentation ancillary thereto; and

Notwithstanding anything to the contrary hereinbefore set forth, all of the Conservation Activities and any management activities permitted herein shall be conducted in accordance with the requirements of this Conservation Easement and sound preservation/conservation practices without violating applicable governmental

laws, rules and regulations. Each party shall use reasonable efforts to keep the other apprised of all significant activities to be conducted on the Protected Parcel.

A. Notice of Violation Corrective Action: If Grantee, determines that a violation of the terms of this Conservation Easement has occurred or is threatened, Grantee, shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Conservation Values of the Protected Parcel resulting from any use or activity inconsistent with the purpose of this Conservation Easement, to restore the portion of the Protected Parcel so injured to its prior condition in accordance with a plan approved in writing by Grantee.

B. Injunctive Relief: If Grantor fails to cure the violation within 30 days after receipt of notice thereof from Grantee, or under circumstances where the violation cannot reasonably be cured within a 30 day period, fails to begin curing such violation within the 30 day period, or fails to continue diligently to cure such violation until finally cured, Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, by temporary or permanent injunction, and to require the restoration of the Protected Parcel in the condition that existed prior to any such injury.

C. Damages: Grantee shall be entitled to recover damages for willful violation of the terms of this Conservation Easement or injury to any Conservation Values protected by this Conservation Easement, including, without limitation, damages (as awarded by the Court) for the loss of any scenic, aesthetic, or environmental values. Without limiting Grantor's liability therefor, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Parcel.

D. Emergency Enforcement: If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation values of the Protected Parcel, Grantee may pursue its remedies under this section without prior notice to Grantor and without waiting for the period provided for cure to expire.

E. Scope of Relief: Grantor agrees that the remedies at law for Grantee for any violation of the terms of this Conservation Easement are inadequate and that the Grantee may be entitled to the injunctive relief described in this section, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The remedies of

Grantee described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

E. Forbearance: Forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any of its terms shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same. No delay or omission by Grantee in the exercise of any right or remedy shall be construed as a waiver.

F. Third Parties. Nothing in this section will prevent Grantor or Grantee from proceeding immediately against third parties who cause violations of this Conservation Easement.

G. Force Majeure. It is specifically acknowledged that the remedies in this section will not apply to violations caused by third parties, war, Acts of God, force majeure or other causes beyond the control of Grantor.

X. Amendments of This Grant

This Grant may be amended only with the written consent of the Grantee and USACE.

XI. Eminent Domain

If all or part of the Protected Parcel is taken in the exercise of eminent domain by public, corporate, or other authorities so as to abrogate the restriction imposed by this conservation easement, Grantor and Grantee shall join in appropriate actions to recover the full value of the Protected Parcel (or portion thereof) taken and all incidental or direct damages that result from such taking. The proceeds shall be divided between Grantor and Grantee in proportion to their interest in the Protected Parcel, such proportion to be established by using the relationship at the time of this Grant, of the fair market value of the Protected Parcel encumbered by this Conservation Easement as compared to the fair market value of the Protected Parcel as unencumbered by this Conservation Easement.

XII. Transfer by Grantee

Grantee shall have the right to transfer this perpetual Conservation Easement to any organization which is eligible to hold a Conservation Easement under the laws of the State of Ohio that agrees to the terms, conditions, restrictions, and purposes of this Conservation Easement, provided that such transfer shall be subject to the prior

written consent of Grantee, whose consent will not be unreasonably withheld or delayed. Grantee shall provide Grantor and USACE 30 days advance notice of such transfer.

XIII. Surveys

If any future concerns about the Protected Parcel boundaries arise and cannot be resolved between Grantor and Grantee, Grantee will survey, or cause to be surveyed, the Protected Parcel. The survey used will meet the requirements set forth in Chapter 4733-37 of the Ohio Administrative Code, as hereafter amended. The Protected Parcel survey will be paid for in full by the Grantee.

XIV. Recording and Deed Reference

This Conservation Easement will be filed and recorded with the Cuyahoga County Recorders' Office by Grantee. Grantor agrees that the terms, conditions, restrictions, and purposes of this Conservation Easement will either be referred to or inserted in any subsequent deed, or other transfer instrument, by which the Grantor transfers title or possessory interest in the Protected Parcel. Furthermore, Grantor agrees that if a new plat plan is being done for the Protected Parcel, the Conservation Easement will be referred to on the registered plat plan.

XV. Grantor's Continuing Obligation

Grantor's continuing obligations hereunder shall cease upon transfer of Grantor's interest in the Protected Parcel

XVI. Miscellaneous

A. Ohio Law to Govern. The laws of the State of Ohio shall govern this Conservation Easement agreement. If any provision herein is found to be invalid, the remainder of the provisions of this Conservation Easement shall not be affected thereby. This instrument sets forth the entire agreement of the parties and supersedes all prior discussions, negotiations, undertakings or agreements relating to the grant of this Conservation Easement.

B. Nature of Easement. Without limiting any other provision of this Conservation Easement, Grantor and Grantee agree and intend that the Conservation Easement granted and accepted hereby constitute a "conservation easement" as that term is used in Section 5301.67 through 5301.70 of the Ohio Revised Code and that

the Conservation Easement granted hereby shall be entitled to all the benefits of such sections.

C. Notices. Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party.

The notice addresses of the parties are as follows:

Grantor: City of North Royalton
14600 State Road
North Royalton, Ohio 44133

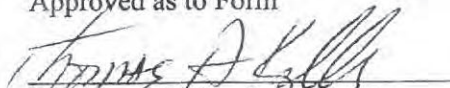
Grantee: West Creek Conservancy
P.O. Box 347113
Parma, Ohio 44134

USACE: USACE
1776 Niagara Street
Buffalo, New York 14207

TO HAVE AND HOLD unto Grantee, its successors and assigns forever. The covenants agreed to and the terms, obligations, conditions, restrictions, and purposes imposed as aforesaid, shall be binding upon and inure to the benefit of Grantor and Grantee, and their respective grantees, successors and assigns, and all other successors in interest, and shall continue as a servitude running in perpetuity with the Protected Parcel.

IN WITNESS WHEREOF, Grantor sets his hand this 4th day of November, 2020.

Approved as to Form


Thomas A. Kelly, Law Director

Grantor: City of North Royalton

By: 
Larry Antoskiewicz, Mayor

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 18 of 23

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this 4th day of November, 2020 by Mayor Larry Antoskiewicz of the City of North Royalton, on behalf of such municipality.



KAREN A. POKRANDT
Notary Public, State of Ohio
My Commission Expires
July 22, 2023


Notary Public

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 19 of 23

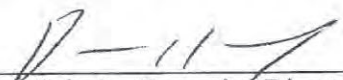
14
0.docx

ACCEPTANCE

The undersigned does hereby consent to and accept the foregoing Conservation Easement and all the obligations imposed thereby.

IN WITNESS WHEREOF, West Creek Conservancy, has executed and delivered this ACCEPTANCE this 21 day of October, 2020.

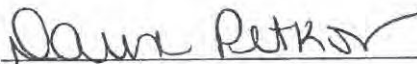
Grantee: West Creek Conservancy

By: 
Derek Schafer, Executive Director

STATE OF OHIO)
) SS.
COUNTY OF CUYAHOGA)

The foregoing instrument was acknowledged before me this 21 day of October, 2020 by Derek Schafer, the Executive Director of West Creek Conservancy, an Ohio non-profit corporation, on behalf of the corporation.




Notary Public

DAWN PETKOV
NOTARY PUBLIC • STATE OF OHIO
My commission expires June 28, 2025

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 20 of 23

LEGAL DESCRIPTION OF PROTECTED PARCELS

Description:

**LEGAL DESCRIPTION
PERPETUAL CONSERVATION EASEMENT
WITHIN CITY OF NORTH ROYALTON'S LAND
PP #488-08-003
4951 WALLINGS ROAD (REAR)
CITY OF NORTH ROYALTON
COUNTY OF CUYAHOGA, OHIO**

Situated in the City of North Royalton, County of Cuyahoga and State of Ohio and known as being a part of Original Royalton Township, Section #19 and being a **7.3228 acres (318,980 sq.ft.) Perpetual Conservation Easement** located within a 12.3197 acres (Plat) Parcel-E as shown on the "Lot Split Plat for City of North Royalton" as recorded on May 11, 2011 in Volume 365, Page 88 of Cuyahoga County Map Records and as conveyed to City of North Royalton prior to Plat recording by deed dated April 19, 2011 as recorded in Document #201104190341 (PP #488-08-003) of Cuyahoga County Deed Records and further bounded and described as follows;

Beginning at a 5/8" iron pin found (capped "Bohning") at the Southwesterly corner of said Parcel-E, City of North Royalton's land (PP #488-08-003) and the Place of Beginning of the Premises herein intended to be described;

- COURSE I** Thence **North 10°20'07" West**, along a Westerly line of said Parcel-E, City of North Royalton's land (PP #488-08-003), a distance of **498.90 feet** to a point, said point being **South 10°20'07" East**, distant **9.75 feet** from an angle point in said Westerly line of Parcel-E, City of North Royalton's land (PP #488-08-003);
- COURSE II** Thence **South 88°17'13" East**, a distance of **61.73 feet** to a point;
- COURSE III** Thence **North 88°17'26" East**, a distance of **139.04 feet** to a point;
- COURSE IV** Thence **North 79°50'12" East**, a distance of **54.20 feet** to a point;

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 21 of 23

- COURSE V** Thence **South 57°33'12" East**, a distance of **62.61 feet** to a point;
- COURSE VI** Thence **North 43°13'14" East**, a distance of **61.88 feet** to a point;
- COURSE VII** Thence **North 79°36'47" East**, a distance of **37.62 feet** to a point;
- COURSE VIII** Thence **North 00°49'12" East**, a distance of **78.62 feet** to a point;
- COURSE IX** Thence **South 88°52'41" East**, a distance of **84.46 feet** to a point;
- COURSE X** Thence **South 01°07'19" West**, a distance of **169.65 feet** to a point;
- COURSE XI** Thence **North 72°01'36" East**, a distance of **228.14 feet** to a point on the Easterly line of said Parcel-E, City of North Royalton's land (PP #488-08-003), said point being **South 00°15'27" West**, distant **318.79 feet** from the Northeasterly corner thereof (5/8" iron pin found – on-line/0.31'S);
- COURSE XII** Thence **South 00°15'27" West**, along said Easterly line of Parcel-E, City of North Royalton's land (PP #488-08-003), a distance of **501.21 feet** to the Southeasterly corner thereof (5/8" iron pin found – 0.20'N/0.37'W);
- COURSE XIII** Thence **North 89°45'29" West**, along the Southerly line of said Parcel-E, City of North Royalton's land (PP #488-08-003), a distance of **593.75 feet** to the Place of Beginning and containing **7.3228 acres (318,980 sq.ft.)** of land as surveyed, calculated and described from Cuyahoga County Records by Donald F. Sheehy, Registered Surveyor #7849 of Chagrin Valley Engineering, Ltd., in July, 2020, be the same, more or less;

Basis of Bearing for this legal description is **North 89°45'29" West** as the Southerly line of said Parcel-E, City of North Royalton's land (PP #488-08-003) as evidenced by property pins found and is the same as shown on the "Lot Split Plat for City of North Royalton" as recorded on May 11, 2011 in Volume 365, Page 88 of Cuyahoga County Map Records;

File #18344 North Royalton-Conservation Easement
Wallings Rd – PP#488-08-003
July 22, 2020 (jaw)

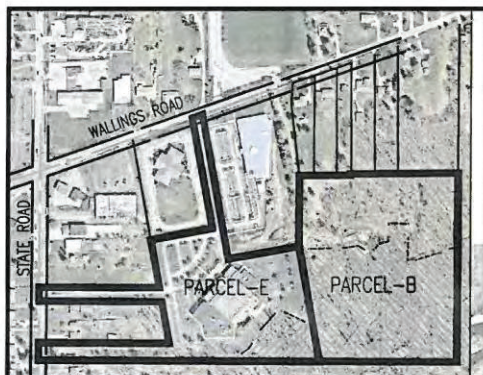
T:\WCC\North.Royalton.2020\C.A.4951.Wallings.Cln.10.21.20.docx

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 22 of 23

T B
of 2

PERPETUAL CONSERVATION EASEMENT

11409 STATE ROAD
4951 WALLINGS ROAD (REAR)
CITY OF NORTH ROYALTON, CUYAHOGA COUNTY, OHIO
FROM: CITY OF NORTH ROYALTON
TO: WEST CREEK PRESERVATION COMMITTEE



LINE DATA

- ① 382.83' N 89°45'29" W
- ② 97.87' N 54°37'23" E
- ③ 79.19' N 27°55'17" E
- ④ 134.28' N 42°21'29" E
- ⑤ 164.12' S 63°46'16" E
- ⑥ 341.41' N 10°20'07" W
- ⑦ 61.73' S 88°17'13" E
- ⑧ 139.04' N 88°17'26" E
- ⑨ 54.20' N 79°50'12" E
- ⑩ 62.61' S 57°33'12" E
- ⑪ 61.88' N 43°13'14" E
- ⑫ 37.62' N 79°36'47" E
- ⑬ 78.62' N 00°49'12" E
- ⑭ 84.46' S 88°52'41" E
- ⑮ 169.65' S 01°07'19" W
- ⑯ 228.14' N 72°01'36" E
- ⑰ 501.21' S 00°15'27" W
- ⑱ 593.75' N 89°45'29" W
- Ⓐ 157.49' N 10°20'07" W
- Ⓑ 9.75' S 10°20'07" E
- Ⓒ 318.79' S 00°15'27" W



GRAPHIC SCALE 0 75 150
(IN FEET)
1 inch = 150 ft.

EXHIBIT 'A' PERPETUAL CONSERVATION EASEMENT

PARCEL-B 1.1930 ACS.-51,968
PARCEL-E 7.3228 ACS.-318,981
TOTAL AREA 8.5158 ACS.-370,949

Prestige Homes, Inc.
D/A Processing No. LRB-2016-01284
Summit County, Ohio Quad: Hudson
Sheet 23 of 23

NATIONWIDE PERMITS FOR THE STATE OF OHIO

U.S. ARMY CORPS OF ENGINEERS (CORPS) REGULATORY PROGRAM REISSUANCE AND MODIFICATION OF NATIONWIDE PERMITS WITH OHIO DEPARTMENT OF NATURAL RESOURCES CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT AND WAIVED OHIO EPA 401 WATER QUALITY CERTIFICATION

NWP 39

39. *Commercial and Institutional Developments.* Discharges of dredged or fill material into non-tidal waters of the United States for the construction or expansion of commercial and institutional building foundations and building pads and attendant features that are necessary for the use and maintenance of the structures. Attendant features may include, but are not limited to, roads, parking lots, garages, yards, utility lines, storm water management facilities, wastewater treatment facilities, and recreation facilities such as playgrounds and playing fields. Examples of commercial developments include retail stores, industrial facilities, restaurants, business parks, and shopping centers. Examples of institutional developments include schools, fire stations, government office buildings, judicial buildings, public works buildings, libraries, hospitals, and places of worship. The construction of new golf courses and new ski areas is not authorized by this NWP. The discharge must not cause the loss of greater than 1/2-acre of non-tidal waters of the United States. This NWP does not authorize discharges of dredged or fill material into non-tidal wetlands adjacent to tidal waters.

Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity. (See general condition 32.) (Authorities: Sections 10 and 404)

Note: For any activity that involves the construction of a wind energy generating structure, solar tower, or overhead transmission line, a copy of the PCN and NWP verification will be provided by the Corps to the Department of Defense Siting Clearinghouse, which will evaluate potential effects on military activities.

Nationwide Permit General Conditions

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as applicable, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Coastal Zone Management Act consistency for an NWP. Every person who may wish to obtain permit authorization under one or more NWPs, or who is currently relying on an existing or prior permit authorization under one or more NWPs, has been and is on notice that all of the

provisions of 33 CFR 330.1 through 330.6 apply to every NWP authorization. Note especially 33 CFR 330.5 relating to the modification, suspension, or revocation of any NWP authorization.

1. Navigation.

- a. No activity may cause more than a minimal adverse effect on navigation.
- b. Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.
- c. The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his or her authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWPs 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below.

The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Structures and Fills. Temporary structures must be removed, to the maximum extent practicable, after their use has been discontinued. Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers.

- a. No NWP activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study
- b. river” for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.
- c. If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. Permittees shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.
- d. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

18. Endangered Species.

- a. No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a
- b. species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify designated critical habitat or critical habitat proposed for such designation. No activity is authorized under any NWP which “may affect” a listed species or critical habitat, unless ESA section 7 consultation addressing the consequences of the proposed activity on listed species or critical habitat has been completed. See 50 CFR 402.02 for the definition of “effects of the action” for the purposes of ESA section 7 consultation, as well as 50 CFR 402.17, which provides further

explanation under ESA section 7 regarding “activities that are reasonably certain to occur” and “consequences caused by the proposed action.”

- c. Federal agencies should follow their own procedures for complying with the requirements of the ESA (see 33 CFR 330.4(f)(1)). If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
- d. Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat or critical habitat proposed for such designation, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), the pre-construction notification must include the name(s) of the endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or that utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. The district engineer will determine whether the proposed activity “may affect” or will have “no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. For activities where the non-Federal applicant has identified listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation), or until ESA section 7 consultation or conference has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
- e. As a result of formal or informal consultation or conference with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

- f. Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.
- g. If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP
- h. activity or whether additional ESA section 7 consultation is required.
- i. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring that an action authorized by an NWP complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting the appropriate local office of the U.S. Fish and Wildlife Service to determine what measures, if any, are necessary or appropriate to reduce adverse effects to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties.

- a. No activity is authorized under any NWP which may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.
- b. Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)(1)). If preconstruction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.
- c. Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts commensurate with potential impacts, which may include background research, consultation, oral history interviews, sample field investigation, and/or field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: No historic properties affected, no adverse effect, or adverse effect.

- d. Where the non-Federal applicant has identified historic properties on which the proposed NWP activity might have the potential to cause effects and has so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed. For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.
- e. Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. Permittees that discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by an NWP, they must immediately notify the district engineer of what they have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters

or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, 52, 57 and 58 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed by permittees in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after she or he determines that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

- a. The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).
- b. Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.
- c. Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.
- d. Compensatory mitigation at a minimum one-for-one ratio will be required for all losses of stream bed that exceed 3/100-acre and require preconstruction notification, unless the district engineer determines in writing that either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. This compensatory mitigation requirement may be satisfied through the restoration or enhancement of riparian areas next to streams in accordance with paragraph (e) of this general condition. For losses of stream bed of 3/100-acre or less that require preconstruction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required

- to ensure that the activity results in only minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult to-replace resources (see 33 CFR 332.3(e)(3)).
- e. Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. If restoring riparian areas involves planting vegetation, only native species should be planted. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.
 - f. Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.
 - 1. The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the
 - 2. district engineer may approve the use of permittee-responsible mitigation.
 - 3. The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f).)

4. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option
 5. considered for permittee-responsible mitigation.
 6. If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)). If permittee responsible mitigation is the proposed option, and the proposed compensatory mitigation site is located on land in which another federal agency holds an easement, the district engineer will coordinate with that federal agency to determine if proposed compensatory mitigation project is compatible with the terms of the easement.
 7. If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan needs to address only the baseline conditions at the impact site and the number of credits to be provided (see 33 CFR 332.4(c)(1)(ii)).
 8. Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).
- g. Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.
- h. (h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee responsible mitigation may be environmentally preferable if there are no mitigation banks

- or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.
- i. Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state or federal, dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality.

- a. Where the certifying authority (state, authorized tribe, or EPA, as appropriate) has not previously certified compliance of an NWP with CWA section 401, a CWA section 401 water quality certification for the proposed discharge must be obtained or waived (see 33 CFR 330.4(c)). If the permittee cannot comply with all of the conditions of a water quality certification previously issued by certifying authority for the issuance of the NWP, then the permittee must obtain a water quality certification or waiver for the proposed discharge in order for the activity to be authorized by an NWP.
- b. If the NWP activity requires preconstruction notification and the certifying authority has not previously certified compliance of an NWP with CWA section 401, the proposed discharge is not authorized by an NWP until water quality certification is obtained or waived. If the certifying authority issues a water quality certification for the proposed discharge, the permittee must submit a copy of the certification to the district engineer. The discharge is not authorized by an NWP until the district engineer has notified the permittee that the water quality certification requirement has been satisfied by the issuance of a water quality certification or a waiver.
- c. The district engineer or certifying authority may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a

presumption of concurrence must occur (see 33 CFR 330.4(d)). If the permittee cannot comply with all of the conditions of a coastal zone management consistency concurrence previously issued by the state, then the permittee must obtain an individual coastal zone management consistency concurrence or presumption of concurrence in order for the activity to be authorized by an NWP. The district engineer or a state may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its CWA section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is authorized, subject to the following restrictions:

- a. If only one of the NWPs used to authorize the single and complete project has a specified acreage limit, the acreage loss of waters of the United States cannot exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
- b. If one or more of the NWPs used to authorize the single and complete project has specified acreage limits, the acreage loss of waters of the United States authorized by those NWPs cannot exceed their respective specified acreage limits. For example, if a commercial development is constructed under NWP 39, and the single and complete project includes the filling of an upland ditch authorized by NWP 46, the maximum acreage loss of waters of the United States for the commercial development under NWP 39 cannot exceed 1/2-acre, and the total acreage loss of waters of United States due to the NWP 39 and 46 activities cannot exceed 1 acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated

liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

- a. A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;
- b. A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and
- c. The signature of the permittee certifying the completion of the activity and mitigation. The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires review by, or permission from, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a “USACE project”), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission and/or review is not authorized by an NWP until the appropriate Corps office issues the section 408 permission or completes its review to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification.

- a. **Timing.** Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is

complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

1. He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
2. 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

b. **Contents of Pre-Construction Notification:** The PCN must be in writing and include the following information:

1. Name, address and telephone numbers of the prospective permittee;
2. Location of the proposed activity;
3. Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;
4.
 - i. A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of

wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures.

- ii. For linear projects where one or more single and complete crossings require pre-construction notification, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters (including those single and complete crossings authorized by an NWP but do not require PCNs). This information will be used by the district engineer to evaluate the cumulative adverse environmental effects of the proposed linear project, and does not change those non-PCN NWP activities into NWP PCNs.
- iii. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);
- iv. The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial and intermittent streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45-day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;
- 5. If the proposed activity will result in the loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed and a PCN is required, the

prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

7. For non-federal permittees, if any listed species (or species proposed for listing) or designated critical habitat (or critical habitat proposed for such designation) might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat (or critical habitat proposed for such designation), the PCN must include the name(s) of those endangered or threatened species (or species proposed for listing) that might be affected by the proposed activity or utilize the designated critical habitat (or critical habitat proposed for such designation) that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;
 8. For non-federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;
 9. For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a “study river” for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the “study river” (see general condition 16); and
 10. For an NWP activity that requires permission from, or review by, the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from, or review by, the Corps office having jurisdiction over that USACE project.
- c. **Form of Pre-Construction Notification:** The nationwide permit pre-construction notification form (Form ENG 6082) should be used for NWP PCNs. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.
- d. **Agency Coordination:**

1. The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP's and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.
2. Agency coordination is required for:
 - i. All NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States;
 - ii. NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and
 - iii. NWP 54 activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.
3. When agency coordination is required, the district engineer will immediately provide (e.g., via email, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or email that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWP's, including the need for mitigation to ensure that the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
4. In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as

required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

5. Applicants are encouraged to provide the Corps with either electronic files or multiple copies of preconstruction notifications to expedite agency coordination.

District Engineer's Decision

1. In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If a project proponent requests authorization by a specific NWP, the district engineer should issue the NWP verification for that activity if it meets the terms and conditions of that NWP, unless he or she determines, after considering mitigation, that the proposed activity will result in more than minimal individual and cumulative adverse effects on the aquatic environment and other aspects of the public interest and exercises discretionary authority to require an individual permit for the proposed activity. For a linear project, this determination will include an evaluation of the single and complete crossings of waters of the United States that require PCNs to determine whether they individually satisfy the terms and conditions of the NWP(s), as well as the cumulative effects caused by all of the crossings of waters of the United States authorized by an NWP. If an applicant requests a waiver of an applicable limit, as provided for in NWPs 13, 36, or 54, the district engineer will only grant the waiver upon a written determination that the NWP activity will result in only minimal individual and cumulative adverse environmental effects.
2. When making minimal adverse environmental effects determinations the district engineer will consider the direct and indirect effects caused by the NWP activity. He or she will also consider the cumulative adverse environmental effects caused by activities authorized by an NWP and whether those cumulative adverse environmental effects are no more than minimal. The district engineer will also consider site specific factors, such as the environmental setting in the vicinity of the NWP activity, the type of resource that will be affected by the NWP activity, the functions provided by the aquatic resources that will be affected by the NWP activity, the degree or magnitude to which the aquatic resources perform those functions, the extent that aquatic resource functions will be lost as a result of the NWP activity (e.g., partial or complete loss), the duration of the adverse effects (temporary or permanent), the importance of the aquatic resource functions to the region (e.g., watershed or ecoregion), and mitigation required by the district engineer. If an appropriate functional or condition assessment method is available and practicable to use, that assessment method may be used by the district engineer to assist in the minimal adverse environmental effects determination. The district engineer may add case-specific special conditions to the NWP authorization to address site-specific environmental concerns.

3. If the proposed activity requires a PCN and will result in a loss of greater than 1/10-acre of wetlands or 3/100-acre of stream bed, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for NWP activities with smaller impacts, or for impacts to other types of waters. The district engineer will consider any proposed compensatory mitigation or other mitigation measures the applicant has included in the proposal in determining whether the net adverse environmental effects of the proposed activity are no more than minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse environmental effects are no more than minimal, after considering mitigation, the district engineer will notify the permittee and include any activity-specific conditions in the NWP verification the district engineer deems necessary. Conditions for compensatory mitigation requirements must comply with the appropriate provisions at 33 CFR 332.3(k). The district engineer must approve the final mitigation plan before the permittee commences work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the proposed compensatory mitigation plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure that the NWP activity results in no more than minimal adverse environmental effects. If the net adverse environmental effects of the NWP activity (after consideration of the mitigation proposal) are determined by the district engineer to be no more than minimal, the district engineer will provide a timely written response to the applicant. The response will state that the NWP activity can proceed under the terms and conditions of the NWP, including any activity-specific conditions added to the NWP authorization by the district engineer.
4. If the district engineer determines that the adverse environmental effects of the proposed activity are more than minimal, then the district engineer will notify the applicant either: (a) That the activity does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (b) that the activity is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal; or (c) that the activity is authorized under the NWP with specific modifications or conditions. Where the district engineer determines that mitigation is required to ensure no more than minimal adverse environmental effects, the activity will be authorized within the 45-day PCN period (unless additional time is required to comply with general conditions 18, 20, and/or 31), with activity-specific conditions that state the mitigation requirements. The authorization will include the necessary

conceptual or detailed mitigation plan or a requirement that the applicant submit a mitigation plan that would reduce the adverse environmental effects so that they are no more than minimal. When compensatory mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan or has determined that prior approval of a final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation.

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

Nationwide Permit Definitions

Best management practices (BMPs): Policies, practices, procedures, or structures implemented to mitigate the adverse environmental effects on surface water quality resulting from development. BMPs are categorized as structural or non-structural.

Compensatory mitigation: The restoration (re-establishment or rehabilitation), establishment (creation), enhancement, and/or in certain circumstances preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Currently serviceable: Useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.

Direct effects: Effects that are caused by the activity and occur at the same time and place.

Discharge: The term “discharge” means any discharge of dredged or fill material into waters of the United States.

Ecological reference: A model used to plan and design an aquatic habitat and riparian area restoration, enhancement, or establishment activity under NWP 27. An ecological reference may be based on the structure, functions, and dynamics of an aquatic habitat

type or a riparian area type that currently exists in the region where the proposed NWP 27 activity is located. Alternatively, an ecological reference may be based on a conceptual model for the aquatic habitat type or riparian area type to be restored, enhanced, or established as a result of the proposed NWP 27 activity. An ecological reference takes into account the range of variation of the aquatic habitat type or riparian area type in the region.

Enhancement: The manipulation of the physical, chemical, or biological characteristics of an aquatic resource to heighten, intensify, or improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment (creation): The manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist at an upland site. Establishment results in a gain in aquatic resource area.

High Tide Line: The line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Historic Property: Any prehistoric or historic district, site (including archaeological site), building, structure, or other object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior. This term includes artifacts, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization and that meet the National Register criteria (36 CFR part 60).

Independent utility: A test to determine what constitutes a single and complete non-linear project in the Corps Regulatory Program. A project is considered to have independent utility if it would be constructed absent the construction of other projects in the project area. Portions of a multi-phase project that depend upon other phases of the project do not have independent utility. Phases of a project that would be constructed even if the other phases were not built can be considered as separate single and complete projects with independent utility.

Indirect effects: Effects that are caused by the activity and are later in time or farther removed in distance, but are still reasonably foreseeable.

Loss of waters of the United States: Waters of the United States that are permanently adversely affected by filling, flooding, excavation, or drainage because of the regulated activity. The loss of stream bed includes the acres of stream bed that are permanently adversely affected by filling or excavation because of the regulated activity. Permanent adverse effects include permanent discharges of dredged or fill material that change an aquatic area to dry land, increase the bottom elevation of a waterbody, or change the use of a waterbody. The acreage of loss of waters of the United States is a threshold measurement of the impact to jurisdictional waters or wetlands for determining whether a project may qualify for an NWP; it is not a net threshold that is calculated after considering compensatory mitigation that may be used to offset losses of aquatic functions and services. Waters of the United States temporarily filled, flooded, excavated, or drained, but restored to pre-construction contours and elevations after construction, are not included in the measurement of loss of waters of the United States. Impacts resulting from activities that do not require Department of the Army authorization, such as activities eligible for exemptions under section 404(f) of the Clean Water Act, are not considered when calculating the loss of waters of the United States.

Navigable waters: Waters subject to section 10 of the Rivers and Harbors Act of 1899. These waters are defined at 33 CFR part 329.

Non-tidal wetland: A non-tidal wetland is a wetland that is not subject to the ebb and flow of tidal waters. Nontidal wetlands contiguous to tidal waters are located landward of the high tide line (i.e., spring high tide line).

Open water: For purposes of the NWPs, an open water is any area that in a year with normal patterns of precipitation has water flowing or standing above ground to the extent that an ordinary high water mark can be determined. Aquatic vegetation within the area of flowing or standing water is either non-emergent, sparse, or absent. Vegetated shallows are considered to be open waters. Examples of “open waters” include rivers, streams, lakes, and ponds.

Ordinary High Water Mark: The term ordinary high water mark means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

Perennial stream: A perennial stream has surface water flowing continuously year-round during a typical year.

Practicable: Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

Pre-construction notification: A request submitted by the project proponent to the Corps for confirmation that a particular activity is authorized by nationwide permit. The

request may be a permit application, letter, or similar document that includes information about the proposed work and its anticipated environmental effects. Preconstruction notification may be required by the terms and conditions of a nationwide permit, or by regional conditions. A pre-construction notification may be voluntarily submitted in cases where preconstruction notification is not required and the project proponent wants confirmation that the activity is authorized by nationwide permit.

Preservation: The removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former aquatic resource. Reestablishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration: The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: Reestablishment and rehabilitation.

Riffle and pool complex: Riffle and pool complexes are special aquatic sites under the 404(b)(1) Guidelines. Riffle and pool complexes sometimes characterize steep gradient sections of streams. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. A slower stream velocity, a streaming flow, a smooth surface, and a finer substrate characterize pools.

Riparian areas: Riparian areas are lands next to streams, lakes, and estuarine-marine shorelines. Riparian areas are transitional between terrestrial and aquatic ecosystems, through which surface and subsurface hydrology connects riverine, lacustrine, estuarine, and marine waters with their adjacent wetlands, non-wetland waters, or uplands. Riparian areas provide a variety of ecological functions and services and help improve or maintain local water quality. (See general condition 23.)

Shellfish seeding: The placement of shellfish seed and/or suitable substrate to increase shellfish production. Shellfish seed consists of immature individual shellfish or

individual shellfish attached to shells or shell fragments (i.e., spat on shell). Suitable substrate may consist of shellfish shells, shell fragments, or other appropriate materials placed into waters for shellfish habitat.

Single and complete linear project: A linear project is a project constructed for the purpose of getting people, goods, or services from a point of origin to a terminal point, which often involves multiple crossings of one or more waterbodies at separate and distant locations. The term “single and complete project” is defined as that portion of the total linear project proposed or accomplished by one owner/developer or partnership or other association of owners/developers that includes all crossings of a single water of the United States (i.e., a single waterbody) at a specific location. For linear projects crossing a single or multiple waterbodies several times at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. However, individual channels in a braided stream or river, or individual arms of a large, irregularly shaped wetland or lake, etc., are not separate waterbodies, and crossings of such features cannot be considered separately.

Single and complete non-linear project: For non-linear projects, the term “single and complete project” is defined at 33 CFR 330.2(i) as the total project proposed or accomplished by one owner/developer or partnership or other association of owners/developers. A single and complete non-linear project must have independent utility (see definition of “independent utility”). Single and complete non-linear projects may not be “piecemealed” to avoid the limits in an NWP authorization.

Stormwater management: Stormwater management is the mechanism for controlling stormwater runoff for the purposes of reducing downstream erosion, water quality degradation, and flooding and mitigating the adverse effects of changes in land use on the aquatic environment.

Stormwater management facilities: Stormwater management facilities are those facilities, including but not limited to, stormwater retention and detention ponds and best management practices, which retain water for a period of time to control runoff and/or improve the quality (i.e., by reducing the concentration of nutrients, sediments, hazardous substances and other pollutants) of stormwater runoff.

Stream bed: The substrate of the stream channel between the ordinary high water marks. The substrate may be bedrock or inorganic particles that range in size from clay to boulders. Wetlands contiguous to the stream bed, but outside of the ordinary high water marks, are not considered part of the stream bed.

Stream channelization: The manipulation of a stream’s course, condition, capacity, or location that causes more than minimal interruption of normal stream processes. A channelized jurisdictional stream remains a water of the United States.

Structure: An object that is arranged in a definite pattern of organization. Examples of structures include, without limitation, any pier, boat dock, boat ramp, wharf, dolphin,

weir, boom, breakwater, bulkhead, revetment, riprap, jetty, artificial island, artificial reef, permanent mooring structure, power transmission line, permanently moored floating vessel, piling, aid to navigation, or any other manmade obstacle or obstruction.

Tidal wetland: A tidal wetland is a jurisdictional wetland that is inundated by tidal waters. Tidal waters rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by other waters, wind, or other effects. Tidal wetlands are located channelward of the high tide line.

Tribal lands: Any lands title to which is either: (1) Held in trust by the United States for the benefit of any Indian tribe or individual; or (2) held by any Indian tribe or individual subject to restrictions by the United States against alienation.

Tribal rights: Those rights legally accruing to a tribe or tribes by virtue of inherent sovereign authority, unextinguished aboriginal title, treaty, statute, judicial decisions, executive order or agreement, and that give rise to legally enforceable remedies.

Vegetated shallows: Vegetated shallows are special aquatic sites under the 404(b)(1) Guidelines. They are areas that are permanently inundated and under normal circumstances have rooted aquatic vegetation, such as seagrasses in marine and estuarine systems and a variety of vascular rooted plants in freshwater systems.

Waterbody: For purposes of the NWP, a waterbody is a “water of the United States.” If a wetland is adjacent to a waterbody determined to be a water of the United States, that waterbody and any adjacent wetlands are considered together as a single aquatic unit (see 33 CFR 328.4(c)(2)).

Further Information

1. District Engineers have authority to determine if an activity complies with the terms and conditions of an NWP.
2. NWPs do not obviate the need to obtain other federal, state, or local permits, approvals, or authorizations required by law.
3. NWPs do not grant any property rights or exclusive privileges.
4. NWPs do not authorize any injury to the property or rights of others.
5. NWPs do not authorize interference with any existing or proposed Federal project (see general condition 31).

Nationwide Permits Regional General Conditions For the State of Ohio

1. NWP's shall not authorize any regulated activity which negatively impacts bogs and/or fens.
2. NWP's shall not authorize any regulated activity in Lake Erie which would result in diversion of water from the Great Lakes.
3. NWP's shall not authorize any regulated activity which has an adverse impact on littoral transport within Lake Erie.
4. **In-Water Work Exclusion Dates:** Any work associated with a regulated activity under a nationwide permit cannot take place during the restricted period of the following Ohio Department of Natural Resources (ODNR), Division of Wildlife (DOW) In-Water Work Restrictions, unless the applicant receives advanced written approval from the DOW, notifies the District Engineer in accordance with Nationwide Permit General Condition 32 and Regional General Condition 6, and receives written approval from the Corps:

Statewide In-Water Work Restriction Periods and Locations

1. Salmonid Locations Restriction Period: September 15 – June 30

Arcola Creek (entire reach)
Ashtabula Harbor
Ashtabula River (Hadlock Rd. to mouth)
Aurora Branch (Chagrin River (RM 0.38 to mouth))
Big Creek (Grand River (Girdled Road to mouth))
Black River (entire reach)
Chagrin River (Chagrin Falls to mouth)
Cold Creek (entire reach)
Conneaut Creek (entire reach)
Conneaut Harbor
Corporation Creek (Chagrin River (entire reach))
Cowles Creek (entire reach)
Ellison Creek (Grand River (entire reach))
Euclid Creek (entire reach)
Fairport Harbor
Grand River (Dam at Harpersfield Covered Bridge Park to mouth)
Gulley Brook (Chagrin River (entire reach))
Huron River (East Branch-West Branch confluence to mouth)
Indian Creek (entire reach)
Kellogg Creek (Grand River (entire reach))
Mill Creek (Grand River (entire reach))
Paine Creek (Grand River (Paine Falls to mouth))

Rocky River (East Branch-West Branch confluence to mouth)
Smokey Run (Conneaut Creek (entire reach))
Turkey Creek (entire reach)
Vermilion River (dam at Wakeman upstream of the US 20/SR 60 bridge to mouth)
Ward Creek (Chagrin River (entire reach))
Wheeler Creek (entire reach)
Whitman Creek (entire reach)

2. Other Locations Restriction Period: March 15 – June 30

All other perennial streams not listed above as salmonid.
Also includes Lake Erie and bays not listed above as salmonid.

Note: This condition does not apply to Ohio Department of Transportation projects that are covered under the “Memorandum of Agreement Between The Ohio Department of Transportation, The Ohio Department of Natural Resources, and The United States Fish and Wildlife Service For Interagency Coordination For Projects Which Require Consultation Under the Endangered Species Act, Impact State Listed Species, and/or Modify Jurisdictional Waters 2016 Agreement Number: 19394” or subsequent amendments to this Ohio Department of Transportation memorandum of agreement.

5. Waters of Special Concern: PCN in accordance with NWP General Condition 32 and Regional General Condition 6 is required for regulated activities in the following resources:

- a. **Threatened and Endangered Species:** Due to the potential presence of federally threatened or endangered species or their habitats, PCN in accordance with NWP General Conditions 18 and 32 and Regional General Condition 6 is required for any regulated activity under the NWPs in Ohio that includes:
 - i. The removal of trees $\geq$ three (3) inches diameter at breast height. These trees may provide suitable roosting, foraging, or traveling habitat for the federally listed endangered Indiana bat and the federally-listed threatened northern long-eared bat; and/or
 - ii. Regulated activities that impact a sand, gravel, and/or cobble beach (landform between the low and high water marks affected by waves) and/or mud flat (areas affected by natural seiche effect) on the Lake Erie shoreline; and/or
 - iii. Regulated activities in the waterway or township of the corresponding counties listed in Appendix 1.

Note 1: Applicants must ensure they are referencing the latest version of Appendix 1 by contacting their nearest U.S. Army Corps of Engineers district office and visiting the online resources identified in General Condition 18(f) of these NWPs, since federally listed species are continuously listed, proposed for listing, and/or de-listed.

Note 2: As mentioned in General Condition 18, federal applicants should follow their own procedures for complying with the requirements of the Endangered Species Act (ESA). Federal applicants, including applicants that have received federal funding, must provide the District Engineer with the appropriate documentation to demonstrate compliance with ESA requirements.

b. Critical Resource Waters:

- i. In Ohio, two (2) areas have been designated critical habitat for the piping plover (*Charadrius melodus*) and are defined as lands 0.62 mile inland from normal high water line. Unit OH-1 extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area, Erie County, encompassing approximately two (2) miles. Unit OH-2 extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park, Lake County, encompassing approximately 0.5 mile.
 - ii. In Ohio three (3) areas have been designated critical habitat for the rabbitsfoot mussel (*Quadrula cylindrica cylindrica*). Unit RF26 includes 17.5 river kilometers (rkm) (10.9 river miles [rimi]) of the Walhonding River from the convergence of the Kokosing and Mohican Rivers downstream to Ohio Highway 60 near Warsaw, Coshocton County, Ohio. Unit RF27 includes 33.3 rkm (20.7 rmi) of Little Darby Creek from Ohio Highway 161 near Chuckery, Union County, Ohio, downstream to U.S. Highway 40 near West Jefferson, Madison County, Ohio. Unit RF29 includes 7.7 rkm (4.8 rmi) of Fish Creek from the Indiana and Ohio State line northwest of Edgerton, Ohio, downstream to its confluence with the St. Joseph's River north of Edgerton, Williams County, Ohio.
 - iii. Old Woman Creek National Estuarine Research Preserve.
- c. **Oak Openings:** Wetland activities conducted in the Oak Openings Region of Northwest Ohio located in Lucas, Henry and Fulton Counties. For a map of the Oak Openings Region, visit <https://www.google.com/maps/d/viewer?mid=1JADupaZXJzO6AUDvnUaV18GVjG7yfBim&usp=sharing>
- d. **Category 3 Wetlands:** As determined through use of the latest approved version of the Ohio Environmental Protection Agency's Ohio Rapid Assessment Method wetland evaluation form.
- e. **Ohio Stream Designations:** Exceptional Warmwater Habitat, Cold Water Habitat, Seasonal Salmonid, or any equivalent designation; or water bodies with an antidegradation category of Superior High Quality Water, Outstanding National Resource Water, or Outstanding State Waters as determined by the Ohio Environmental Protection Agency except for NWP 1, 2, 3, 9, 10, 11, 27, 28, 32, and 35 or maintenance activities covered under NWPs 7 and 12. The current

list of these rivers and tributaries can be found on the Ohio Environmental Protection Agency web-site at: <https://epa.ohio.gov/static/Portals/35/rules/01-05.pdf>. These designations can be found under the aquatic life use of the rivers and tributaries within its basin and under the "Anti-deg Rule #05."

6. **PCN Submittals:** In addition to the information required under NWP General Condition 32, the following information must be provided with the PCN:

- a. **Threatened and Endangered Species:** Section 7(a)(2) of the Endangered Species Act (ESA) states that each federal agency shall, in consultation with the Secretary, insure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the ESA, called "Interagency Cooperation," is the mechanism by which federal agencies ensure the actions they take, including those they fund or authorize, do not jeopardize the continued existence of any federally or proposed federally listed species. Consistent with NWP General Condition 18, information for federally threatened and endangered species must be provided in the PCN to determine the proposed activity's compliance with NWP General Condition 18 and to facilitate project-specific coordination with the USFWS. All relevant information obtained from the USFWS must be submitted with the PCN.
- b. **Cultural Resources:** Under the National Historic Preservation Act (NHPA), the Corps must ensure no federal undertaking, including a Corps permit action, which may affect historic resources, is commenced before the impacts of such action are considered and the Advisory Council on Historic Preservation and the State Historic Preservation Office (SHPO) are provided an opportunity to comment as required by the NHPA, 36 CFR 800, and 33 CFR 325, Appendix C. Consistent with NWP General Condition 20, historic properties information must be provided in the PCN if the proposed undertaking might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. All relevant information obtained from the SHPO must be submitted with the PCN.
- c. **National Wild and Scenic Rivers:** The following waterways are components of the National Wild and Scenic River System and require PCN to the Corps:

Big and Little Darby Creeks

- Big Darby Creek from Champaign-Union County line downstream to the Conrail railroad trestle and from the confluence with the Little Darby Creek downstream to the Scioto River;
- Little Darby Creek from the Lafayette-Plain City Road bridge downstream to within 0.8 mile from the confluence with Big Darby

- Creek; and
- Total designation is approximately 82 miles.

Little Beaver Creek

- Little Beaver Creek main stem, from the confluence of West Fork with Middle Fork near Williamsport to mouth;
- North Fork from confluence of Brush Run and North Fork to confluence of North Fork with main stem at Fredericktown;
- Middle Fork from vicinity of Co. Rd. 901 (Elkton Road) bridge crossing to confluence of Middle Fork with West Fork near Williamsport;
- West Fork from vicinity of Co. Rd. 914 (Y-Camp Road) bridge crossing east to confluence of West Fork with Middle Fork near Williamsport; and
- Total designation is 33 miles.

Little Miami River

- Little Miami River - St. Rt. 72 at Clifton to the Ohio River;
- Caesar Creek - lower two (2) miles of Caesars Creek; and
- Total designation is 94 miles.

- d. **Temporary Fills or Structures:** When a PCN is required for temporary fills or structures, the PCN must specify how long the temporary fills or structures will remain and include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-construction contours and elevations. Native, non-invasive vegetation must be used unless otherwise authorized by a Corps NWP verification.

7. **Invasive Species:** No area for which grading has been completed will be unseeded or unmulched for longer than 14 days. All disturbed areas will be seeded and/or revegetated with native species and approved seed mixes (where practicable) after completion of construction activities for stabilization and to help preclude the establishment of non-native invasive species.

APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
Adams	Ohio River, Scioto Brush Creek, South Fork Scioto Brush Creek	
Ashtabula	Grand River, Pymatuning Creek	Andover, Austinburg, Cherry Valley, Colebrook, Dorset, Hartsgrove, Harpersfield, Morgan, New Lyme, Orwell, Richmond, Rome, Trumbull, Wayne, Williamsfield, Windsor
Athens	Ohio River	

APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)

County	Waterway	Township
Brown	East Fork Little Miami River, Ohio River	
Butler	Great Miami River	Lemon, Liberty
Champaign		Mad River, Union, Urbana
Clark	Little Miami River	Bethel, Moorfield, Pleasant, Springfield
Clermont	East Fork Little Miami River, Little Miami River, Ohio River	
Clinton		Chester, Richland, Wayne
Columbiana		Butler, Fairfield, Hanover, Knox, Unity
Coshocton	Killbuck Creek, Muskingum River, Walhonding River	
Crawford		Auburn, Bucyrus, Cranberry, Dallas, Holmes, Whetstone
Darke	Stillwater River	
Defiance	St. Joseph River	Milford
Delaware	Mill Creek, Olentangy River	
Erie		Margaretta
Fairfield		Walnut
Fayette		Concord, Green, Jasper, Union
Franklin	Big Darby Creek, Little Darby Creek, Scioto River	
Fulton	Swan Creek	
Gallia	Ohio River	
Greene	Little Miami River	Bath, Beaver Creek, Spring Valley, Sugar Creek
Hamilton	Great Miami River, Little Miami River, Ohio River	
Hancock	Blanchard River	
Hardin	Blanchard River	Blanchard, Dudley, Hale, Jackson, McDonald, Roundhead
Hocking		Benton, Laurel
Holmes		All townships
Huron		New Haven, Richmond
Lake	Grand River	Madison
Lawrence	Ohio River	
Licking		Licking, Union
Logan	Great Miami River	Perry, Richland, Stokes, Washington, Zane

APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
Lucas	Swan Creek	All townships
Madison	Big Darby Creek, Little Darby Creek	
Mahoning		Beaver, Boardman, Canfield, Green, Poland, Springfield
Marion	Tymochtee Creek	Big Island, Bowling Green, Grand, Green Camp, Montgomery, Salt Rock
Meigs	Ohio River	
Miami	Great Miami River, Stillwater River	
Montgomery	Great Miami River, Stillwater River	Mad River, Wayne
Morgan	Muskingum River	
Muskingum	Muskingum River	
Ottawa		All townships
Perry		Thorn
Pickaway	Big Darby Creek, Scioto River	
Pike	Scioto River	
Portage		Aurora, Atwater, Charlestown, Deerfield, Edinburg, Franklin, Freedom, Mantua, Nelson, Palmyra, Paris, Randolph, Ravenna, Rootstown, Streetsboro
Preble		Dixon, Gasper, Israel, Jackson, Lanier, Monroe, Somers, Twin, Washington
Richland		Plymouth
Ross	Salt Creek, Scioto River	
Sandusky		All townships
Scioto	Ohio River, Scioto Brush Creek, Scioto River, South Fork Scioto Brush Creek	Nile, Rush, Union
Shelby	Great Miami River	
Stark		Lexington, Marlboro
Summit		Hudson, Tallmadge, Twinsburg
Trumbull	Pymatuning Creek	All townships
Union	Big Darby Creek, Little Darby Creek, Mill Creek, Treacle Creek	Allen, Darby, Washington
Warren	Great Miami River, Little Miami River	Clear Creek, Deerfield, Massie, Turtle Creek, Union, Washington, Wayne
Washington	Muskingum River, Ohio River	

APPENDIX 1 TO REGIONAL GENERAL CONDITION 5 (a)		
County	Waterway	Township
Wayne		All townships
Williams	Fish Creek, St. Joseph River	Bridgewater, Center, Florence, Jefferson, Madison, Northwest, St. Joseph, Superior
Wyandot	Tymochtee Creek	Antrim, Marseilles, Mifflin, Pitt

HELPFUL INFORMATION FOR COMPLIANCE WITH THE NWP GENERAL CONDITIONS:

DISCLAIMER: The below information is intended to provide helpful contact information and other submittal recommendations. Contact the appropriate local, state, or federal agency for the most updated links to ensure compliance with the NWP General Conditions.

General Condition 1 (Navigation)

List of Section 10 Navigable Waters of the U.S.:

Buffalo District –

<https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll9/id/2710>

Huntington District – <https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Louisville District –

<https://www.lrl.usace.army.mil/Portals/64/docs/Regulatory/Public%20Notices/Limits%20of%20Jurisdiction%20Public%20Notice-revised.pdf?ver=2013-02-13-120705-203>

Pittsburgh District –

<https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/RegulatoryBoundaries/PN12-2.pdf>

Navigation Charts:

Buffalo District – <https://www.lrb.usace.army.mil/Library/Maps-and-Charts/>

Huntington District – <https://www.lrh.usace.army.mil/Missions/Regulatory/Section-10-Streams/>

Louisville District –

<https://www.lrl.usace.army.mil/Portals/64/docs/Ops/Navigation/Charts/Ohio/OhioRiverC>

[harts102-122.pdf](#)

Pittsburgh District – <https://www.lrp.usace.army.mil/Missions/Navigation/Navigation-Charts/>

Locks and Dams:

Buffalo District – <https://www.lrb.usace.army.mil/Library/Maps-and-Charts/>

Huntington District – <https://www.lrh.usace.army.mil/Missions/Civil-Works/Locks-and-Dams/>

Louisville District – <https://www.lrl.usae.army.mil/Missions/Civil-Works/Navigation/Locks-and-Dams/>

Pittsburgh District – <https://www.lrp.usace.army.mil/Missions/Navigation/Locks-and-Dams/#:~:text=Locks%20and%20Dams%20%20%20Allegheny%20River%20,Locks%20%26%20Dam%20%205%20more%20rows%20>

Notice to Navigation Interests Request Sheets:

Huntington District – <https://www.lrh.usace.army.mil/Portals/38/docs/navigation/Notice%20Info%20sheet.pdf>

Louisville – <https://www.lrl.usace.army.mil/Portals/64/docs/Regulatory/Forms/Notice%20to%20Navigation%20Interests%20Data%20Form%202019.pdf?ver=2019-07-22-101251-297>

Pittsburgh District – <https://www.lrp.usace.army.mil/Portals/72/docs/regulatory/NavNoticeRequestForm.pdf>

General Condition 5 (Shellfish Beds)

Shellfish beds in Ohio include concentrations of freshwater mussels. All native mussels are protected in the State of Ohio (Section 1533.324 of the Ohio Revised Code). In addition, 10 federally listed species occur in the state and are protected by the ESA (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.). All rivers and tributaries that contain mussels or potential mussel habitat must be surveyed prior to any proposed streambed disturbance. Currently accepted protocol and supporting materials can be found on the Ohio Department of Natural Resources' website:

<https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor>

General Condition 7 (Water Supply Intakes)

Locations of drinking water source protection areas associated with public water supply intakes, including the name of the public water supply, can be found at the following link:

<https://oeqa.maps.arcgis.com/apps/webappviewer/index.html?id=3b39e11ba7fc43c3b41801e3580e6d21>

Contact information for public water suppliers can be obtained from Ohio EPA by contacting the Division of Drinking and Ground Waters at whp@epa.ohio.gov or 614-644-2752.

General Condition 10 (Fills Within 100-year Floodplains)

The following website provides a statewide listing of Floodplain Managers in Ohio:

<https://ohiodnr.gov/wps/portal/gov/odnr/discover-and-learn/safety-conservation/about-ODNR/water-resources/floodplains/>

General Condition 16 (Wild and Scenic Rivers)

Prior to submitting a PCN for work in a National Wild and Scenic River System, it is recommended that the applicant contact the National Park Service Regional Wild and Scenic Rivers Specialist, at the Midwest Regional Office, 601 Riverfront Drive, Omaha, Nebraska 68102, for assistance in complying with NWP General Condition 16. Any determination provided by the National Park Service should be submitted with the PCN. The following website provides information on National Wild and Scenic Rivers within Ohio:

<https://www.rivers.gov/ohio.php>

General Condition 18 (Endangered Species)

To obtain the most up to date information on federally threatened and endangered species applicants are encouraged to utilize the USFWS's Information for Planning and Consultation System (IPaC) found at <https://ecos.fws.gov/ipac/>

Prior to the submittal of a PCN, applicants may also contact the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Mussel Survey Protocol may be found at the following link:

<https://ohiodnr.gov/wps/portal/gov/odnr/buy-and-apply/special-use-permits/collecting-research/ohio-mussel-surveyor>

General Condition 4 (Migratory Bird Breeding Areas) and General Condition 19 (Migratory Birds and Bald and Golden Eagles)

Prior to the submittal of a PCN, information to assist in complying with NWP General Conditions 4 and 19 may be obtained from the USFWS, Ohio Ecological Services Field Office at:

Address: 4625 Morse Road, Suite 104
Columbus, Ohio 43230

Email: ohio@fws.gov

Phone: (614) 416-8993

The Ohio Division of Natural Resources Division of Wildlife may be contacted at (800) 945-3543.

General Condition 20 (Historic Properties)

The Ohio National Register of Historic Places can be found at the following link:
<https://www.ohiohistory.org/preserve/state-historic-preservation-office/nationalregister>

When reviewing a PCN, the Corps will scope appropriate historic property identification efforts and, if applicable, work with the applicant to take into account the effect of the proposed activity on historic properties. In these instances, information and coordination may include:

- Requesting comments directly from the Ohio History Connection SHPO on the effect the proposed regulated activity may have on historic properties. The Ohio History Connection SHPO may be contacted at:

Address: Ohio History Center
800 E. 17th Ave., Columbus, Ohio 43211
Phone: (614) 297-2300
Email: info@ohiohistory.org

- To identify potential historic properties that may be affected by a proposed project, the following information may be reviewed and/or provided with the PCN when applicable:
 - A detailed description of the project site in its current condition (i.e. prior to construction activities) including information on the terrain and

- topography of the site, the acreage of the site, the proximity of the site to major waterways, and any known disturbances within the site.
 - A detailed description of past land uses in the project site.
 - Photographs and mapping showing the site conditions and all buildings or structures within the project site and on adjacent parcels are useful. Photographs and maps supporting past land uses should be provided as available.
 - Information regarding any past cultural resource studies or coordination pertinent to the project area, if available.
 - U.S. Geological Survey (USGS) 7.5' series topographic maps;
 - Ohio History Connection SHPO files including:
 - Ohio Archaeological Inventory (OAI) files;
 - Ohio Historic Inventory files (OHI);
 - Ohio SHPO Cultural Resources Management (CRM)/contract archaeology files;
 - NRHP files including Historic Districts; and
 - County atlases, histories and historic USGS 15' series topographic map(s).
- When needed to evaluate effects to historic properties, the applicant is encouraged to consult with professionals meeting the Professional Qualification Standards as set forth in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation (48 FR 44716) during this data gathering process. These professionals can assist with compiling the project information discussed above and should provide recommendations as to whether the proposal has the potential to affect historic properties and if further effort is needed to identify or assess potential effects to historic properties. These professionals can also compile preliminary review information to submit to the District Engineer as part of the PCN.

General Condition 23 (Mitigation)

Information pertaining to mitigation can be found at the following link:
<https://www.lrh.usace.army.mil/Missions/Regulatory/Mitigation.aspx>

General Condition 25 (Water Quality)

The Ohio Environmental Protection Agency may be contacted at:

Address: Lazarus Government Center
 50 W Town St. Suite 700
 Columbus, Ohio 43215

Phone: (614) 644-2001

Information pertaining to the Ohio Environmental Protection Agency water quality certification (WQC) program, including the Section 401 Clean Water Act WQC application form, can be obtained at the following link:

<https://epa.ohio.gov/divisions-and-offices/surface-water/permitting/water-quality-certification-and-isolated-wetland-permits>

General Condition 32 (Pre-Construction Notification)

The nationwide permit pre-construction notification form (Form ENG 6082) may be obtained at the following link:

https://www.publications.usace.army.mil/Portals/76/Users/182/86/2486/Eng_Form_6082_2022Sep.pdf

A checklist of information that must be provided in a pre-construction notification can be obtained at the following link:

<https://www.lrh.usace.army.mil/Missions/Regulatory/How-to-Apply-for-a-Permit/Nationwide-Permits/>

Electronic Submittal:

- PCNs should be saved as a PDF document, and then submitted as an attachment in an email to the appropriate Regulatory Office:

Buffalo District – LRB.Ohio.RegActions@usace.army.mil

Huntington District – LRH.permits@usace.army.mil

Louisville District – CELRL.Door.To.The.Corps@usace.army.mil

Pittsburgh District – Regulatory.Permits@usace.army.mil

- Electronic documents must have sufficient resolution to show project details. The PCN and supporting documents submitted electronically must not exceed 10 megabytes (10MB) per email. Multiple emails may be required to transmit documents to ensure the 10MB limit is not exceeded. Alternatively, use of the Department of Defense Secure Access File Exchange (DoD SAFE) service to transfer large files may be requested in your email.
- For tracking and processing purposes, the email should include the following:
 - **Email Subject Line:** include the name of the applicant, type of PCN request, and location (County and State). Example: RE: Doe, John, PCN and Section 401 WQC Request, Summit County, Ohio;
 - **Email Body:** 1) Brief description of the proposed project, 2) contact information (phone number, mailing address, and email address) for the applicant and/or their agent, and 3) the project location: Address and Latitude/Longitude in decimal degrees (e.g. 42.92788° N, 88.36257° W).

- If you do not have internet access, information may be submitted through the U.S. Postal Service to the appropriate Regulatory Office:

U.S. Army Corps of Engineers, Buffalo District
ATTN: Regulatory Branch
478 Main Street
Buffalo, New York 14202
Phone: (716) 879-4330
Fax: (716) 879-4310

U.S. Army Corps of Engineers, Huntington District
ATTN: Regulatory Division
502 Eighth Street
Huntington, West Virginia 25701-2070
Phone: (304) 399-5210
Fax: (304) 399-5805

U.S. Army Corps of Engineers, Pittsburgh District
ATTN: Regulatory Division
William S. Moorhead Federal Building
1000 Liberty Avenue
Pittsburgh, Pennsylvania 15222-4186
Phone: (412) 395-7155
Fax: (412) 644-4211

U.S. Army Corps of Engineers, Louisville District
ATTN: CELRL-RD, Room 752
600 Dr. Martin Luther King Jr. Place
Louisville, Kentucky 40202-0059
Phone: (502) 315-6733
Fax: (502) 315-6677