



REPLY TO
ATTENTION OF:

**DEPARTMENT OF THE ARMY
BUFFALO DISTRICT, CORPS OF ENGINEERS
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199**

May 19, 2016

Regulatory Branch

SUBJECT: Department of the Army Application No. 2016-00350.

Paul Colucci
DiMarco Constructors
1950 Brighton Henrietta Town Line Rd.
Rochester, NY 14623

Dear Mr. Colucci:

I am writing to you in regard to your request for a jurisdictional determination for the property located on a 142.3 acre property located southwest of the intersection of Route 46 and Route 10, and east of the Canandaigua Outlet in the City of Canandaigua, Ontario County, New York.

Section 404 of the Clean Water Act (CWA) establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States (WOUS), including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map. This verification was confirmed on January 7, 2016 and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for WOUS. Further, this delineation/determination has been conducted to identify the limits of the Corps CWA jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

Based upon my review of the submitted delineation and on-site observations, I have determined that wetland areas Wetland B, Wetland C, Wetland D, Wetland G, Wetland H, Wetland K, Wetland J, Wetland M, Wetland N, Wetland O, Wetland P, Wetland Q, Wetland R, and Wetland S and the tributaries, Canandaigua Outlet, the Unnamed Non-RPW Trib 1 to Canandaigua Outlet, the Unnamed Non-RPW Trib 2 to Canandaigua Outlet, and the Unnamed Non-RPW Trib 3 to Canandaigua Outlet on the subject parcel are part of a surface water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination (JD) form. Therefore, these wetlands and tributaries are regulated under Section

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404 of the CWA. DA authorization is required if you propose a discharge of dredged or fill material in these areas.

In addition, I have determined that there is no clear surface water connection or ecological continuum between wetland areas Wetland I, Wetland F, Wetland L, and Wetland E on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the CWA. Accordingly, you do not need DA authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

Finally, this letter contains an approved JD for the subject parcel. If you object to this JD, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above JD, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Attn: Jacob Siegrist
Great Lakes and Ohio River Division
CELRD-PDS-O
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
Phone: 513-684-2699; FAX 513-684-2460

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by **July 19, 2016**.

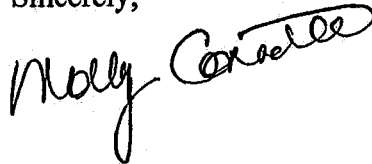
It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

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Questions pertaining to this matter should be directed to me by calling 716-879-4304, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: molly.a.connerton@usace.army.mil

Sincerely,

A handwritten signature in black ink, appearing to read "Molly Connerton". The signature is written in a cursive, flowing style.

Molly Connerton
Biologist

Enclosure

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Dimarco Constructors (City of Canandaigua-Route 46)		File Number: 2016-00350	Date: 05/19/2016
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
x	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. 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: 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.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **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.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: 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.

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. 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.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Molly Connerton
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207
716-879-4304
molly.a.connerton@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Attn: Jacob Siegrist
Great Lakes and Ohio River Division
CELRD-PD-REG
550 Main Street, Room 10524
Cincinnati, OH 45202-3222
513-684-2699; FAX 513-684-2460

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.

<hr/> Signature of appellant or agent.	Date:	Telephone number:
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