



DEPARTMENT OF THE ARMY  
CHICAGO DISTRICT, CORPS OF ENGINEERS  
111 NORTH CANAL STREET  
CHICAGO, ILLINOIS 60606-7206

AUG 31 2007

REPLY TO  
ATTENTION OF:

Technical Services Division  
Regulatory Branch  
LRC-2005-23331 (200501172)

SUBJECT: Jurisdictional Determination of Property Located North of Diehl Road, West of Route 59 and East of Country Club Boulevard in the City of Naperville, DuPage County, Illinois (Section 4, Township 38 North, Range 9 East)

Pacific-Midwest Partners  
Attention: Larry Law  
26 Corporate Plaza Drive, Suite 250  
Newport Beach, California 92660

Dear Mr. Law:

This is in response to your request for a jurisdictional determination submitted on your behalf by CBBEL, for the above-referenced project. This office has determined that there are no waterways, wetlands or other areas considered "waters of the United States" under Corps of Engineers jurisdiction at the site. Wetland areas numbered 1-5 are isolated wetland areas and do not appear to have a hydrological connection to a jurisdictional waters of the U.S. Therefore, a Department of the Army permit under Section 404 of the Clean Water Act is not required. It is your responsibility however to obtain any required state or local approvals for this project.

This determination covers only your project as described above and as shown in your wetland Assessment for the East-West Technological Center, Naperville, DuPage County, Illinois dated September 19, 2005, prepared by CBBEL. Enclosed, please find a copy of the decision document for our determination. Caution should be taken so that construction materials and/or activities do not enter any waterway or wetlands beyond the scope of this determination. If the design, location or purpose of the project is changed, you should contact this office to determine the need for other authorization.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This 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 request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.



This letter is considered an approved jurisdictional determination for your subject site. If you wish to appeal this decision or if you have any questions please contact Diedra Willis of my staff by telephone at 312-846-5539, or email at diedra.l.willis@usace.army.mil.

Sincerely,



Leesa A. Beal  
Chief, East Section  
Regulatory Branch

**MITCHELLA. ISOE**  
Chief, Regulatory Branch

Enclosure

Copy Furnished (w/out enclosures):

DuPage County DEC (Karen Laskowski)  
CBBEL (Andrea Cline)

**APPROVED JURISDICTIONAL DETERMINATION DECISION DOCUMENT**

U.S. Army Corps of Engineers, Chicago District

**APPLICANT:** Pacific-Midwest Partners **PROJECT LOCATION/WATERWAY:** North of Diehl Road, West of Route 59 and East of Country Club Boulevard in the City of Naperville, DuPage County, Illinois

**FILE NUMBER:** LRC-2005-23331(200501172) **PROJECT REVIEW COMPLETED:**  Office  Field

**Approved Jurisdictional Determination (JD)** (For sites regulated under 33 CFR 320-330). An approved JD is an appealable action. (33 CFR 331.2)

Based on available information:

- There are no waters on the project site.
- There are non-jurisdictional waters on the project site.
- There are waters of the United States on the project site.
- There are both waters of the United States and non-jurisdictional waters on the project site.

**Basis of Jurisdictional Determination:**

- There are no jurisdictional waters of the United States present on the project site.
- The presence of waters which are currently used, or were used in the past, or may be susceptible for use to transport interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide (i.e., navigable waters of the U.S.) (33 CFR 328.3(a)(1))
- The presence of interstate waters (including interstate wetlands<sup>1</sup>). (33 CFR 328.3 (a)(2))
- The presence of a tributary to an interstate water or other water of the US. (33 CFR 328.3 (a)(5))
- The presence of wetlands adjacent<sup>2</sup> ( bordering, contiguous, or neighboring) to interstate or other waters of the US, except for those wetlands adjacent to other wetlands. (33 CFR 328.3 (a)(7))
- The presence of an isolated water (e.g., intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds).
- Other:
- Section 10 waterway.

**Information Reviewed**

- U. S. Fish and Wildlife Service National Wetland Inventory: NAPERVILLE.
- U. S. Geological Survey Hydrologic Atlas: NAPERVILLE, HA 154.
- USDA Natural Resources Conservation Service Soil Survey for DuPage County.
- U. S. Geological Survey 7.5 Minute Topographic Maps: NAPERVILLE, 1993.
- U. S. Geological Survey 7.5 Minute Historic Quadrangles: \_\_\_\_\_.
- U. S. Geological Survey 15 Minute Historic Quadrangles: \_\_\_\_\_.
- Aerial Photographs (Name & Date):spring 2002
- Advanced Identification Wetland Maps: DUPAGE COUNTY..
- Site Visit Conducted on:
- Other information:

**Rationale for Basis (applies to any boxes checked above):** Wetland areas numbered 1-5 are isolated wetland areas and do not appear to have a hydrological connection to a jurisdictional waters of the U.S.

**Lateral Extent of Jurisdiction (33 CFR 328 and 329):**

Ordinary High Water Mark indicated by:

- |  |  |
|--|--|
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> destruction of terrestrial vegetation |
| <input type="checkbox"/> the presence of litter and debris         | <input type="checkbox"/> shelving                              |
| <input type="checkbox"/> changes in the character of soil          | <input type="checkbox"/> other                                 |
| <input type="checkbox"/> wetland boundary                          |  |

**Basis for Declining Jurisdiction:**

- Unable to confirm the presence of waters listed in 33 CFR 328.3(a)(1), 328.3(a)(2), or 328.3(a)(4) through 328.3(a)(7)
- Area under consideration is likely to have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
- Area under consideration is not likely have been jurisdictional under pre-SWANCC Migratory Bird Rule criteria
- Headquarters declined to approve jurisdiction on the basis of 328.3(a)(3) [attach copy of HQ rationale]

**Confirmation of Wetland Boundaries**

- This office concurs with your wetland delineation report dated \_\_\_\_\_, prepared by \_\_\_\_\_.
- This office does not confirm your wetland boundary.

**Recommended by:** William Wilk **Date:** 8-30-07

**Approved by:** [Signature] **Date:** 8/30/07

<sup>1</sup>Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology). Processes for determining wetlands on agricultural lands may vary from methods described in the Corps Wetland Delineation Manual (1987).

<sup>2</sup> Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** Chicago  
**FILE NUMBER:** LRC-2005-23331(200501172)

**REGULATORY PROJECT MANAGER:** Diedra Willis **Date:** August 30, 2007

**PROJECT REVIEW/DETERMINATION COMPLETED:** **In the office** (Y/N) **Date:** August 21, 2007  
**At the project site** (Y/N) **Date:**

**PROJECT LOCATION INFORMATION:**

**State:** Illinois  
**County:** DuPage  
**Center coordinates of site by latitude & longitudinal coordinates:** 41.79908 & -88.2121  
**Approximate size of site/property (including uplands & in acres):**  
**Name of waterway or watershed:**

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
River	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Stream	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Dry Wash	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Mudflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Sandflat	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Wetlands	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Slough	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Prairie pothole	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Wet meadow	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Playa lake	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Vernal pool	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Natural pond	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
Other water (identify type)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is or would be used as habitat by other migratory birds that cross state lines?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is or would be used as habitat for endangered species?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Is used to irrigate crops sold in interstate commerce?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary  Or Approved

**OPTIONAL ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite):**