



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

December 15, 2022

Regulatory Branch

SUBJECT: Preliminary Jurisdictional Determination for Department of the Army Application
No. 2022-01077

Brian Thomas
High Point Charitable Services, Inc.
424 E. Main Street
La Grange, KY 40031

Dear Mr. Thomas:

I have reviewed the aquatic resource delineation map submitted on behalf of High Point Charitable Services, Inc. for a preliminary jurisdictional determination (JD) on an approximately 4.87-acre parcel of land located northwest of Ohio State Route 7 (SR 7) and Underridge Road, in Conneaut, Ashtabula County, Ohio (Sheet 1 of 2).

I have evaluated your submitted aquatic resource delineation map and have determined that the aquatic resource boundaries shown on the map accurately represent on-site conditions (Sheet 2 of 2). 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.

Pursuant to Regulatory Guidance Letter 16-01, any permit application made in reliance on this preliminary JD will be evaluated as though all aquatic resources on the site are regulated by the Corps. Further, all aquatic resources will be used for purposes of assessing the extent of project related impacts and compensatory mitigation. If you require a definitive response regarding Department of the Army jurisdiction for any or all of the aquatic resources identified on the submitted drawings, you may request an approved JD from this office. If an approved JD is requested, please be aware that this is often a lengthy process and we may require the submittal of additional information.

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

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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.

A copy of this letter has been sent to Ms. Cindy Paschke (Land Solutions, LLC) and to Mr. Jeffrey Boyles (Ohio Environmental Protection Agency).

Questions pertaining to this matter should be directed to me at 716-879-4339, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: keith.c.sendziak@usace.army.mil

Sincerely,

A handwritten signature in black ink that reads "Keith C Sendziak". The signature is written in a cursive, flowing style.

Keith Sendziak
Biologist

Enclosures

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: High Point Charitable Services, Inc.		File Number: 2022-01077	Date: December 15, 2022
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	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	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:

Keith Sendziak
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207
716-879-4339
keith.c.sendziak@usace.army.mil

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

Suzanne Chubb
Regulatory Appeals Review Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10-714
Cincinnati, Ohio 45202-3222
Phone: (513) 684-7261 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.

Signature of appellant or agent.

Date:

Telephone number:

BACKGROUND INFORMATION**A. REPORT COMPLETION DATE FOR PJD:** 15-DEC-2022**B. NAME AND ADDRESS OF PERSON REQUESTING PJD:**

Thomas, Brian
 High Point Charitable Services, Inc.
 424 E. Main Street
 La Grange, KY 40031

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

LRB, High Point Charitable Services, Inc., LRB-2022-01077

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: OH County/parish/borough: Ashtabula City: Conneaut

Center coordinates of site (lat/long in degree decimal format):

Lat.: 41.911993° Long.: -80.571399°

Universal Transverse Mercator: 17

Name of nearest waterbody: Conneaut Creek

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

X Office (Desk) Determination. Date: December 15, 2022

X Field Determination. Date(s): November 16, 2022

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	41.912717	-80.571258	1.99 acres	Wetland	Section 404
Wetland B	41.912778	-80.56923	0.53 acres	Wetland	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.

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.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

- 2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction 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, which does 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 Corps 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; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD 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 Corps 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:

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: Land Solution, LLC.
- ☒ 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 Corps: _____.
- ☐ 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: _____.
- ☐ Natural Resources Conservation Service Soil Survey. Citation: _____.
- ☐ National wetlands inventory map(s). Cite name: _____.

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Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

___ State/local wetland inventory map(s): _____.
___ FEMA/FIRM maps: _____.
___ 100-year Floodplain Elevation is: _____. (National Geodetic Vertical Datum of 1929)
___ Photographs: ___ Aerial (Name & Date): _____.
___ or ___ Other (Name & Date): _____.
___ Previous determination(s). File no. and date of response letter: _____.
___ Other information (please specify): _____.

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

Keith C Sendziak

Signature and date of Regulatory staff
member completing PJD

Signature and date of person requesting
PJD (REQUIRED, unless obtaining the
signature is impracticable)¹

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.



0 1000
Scale 1"=1000'

Sheet 1 of 2



Land Solutions

Land Solutions, LLC
34600 Chardon Road, Suite C
Willoughby Hills, Ohio 44094

FIGURE 3
USGS TOPOGRAPHIC MAP
HIGH POINT CHARITABLE SERVICES, INC.
NW OF SR 7 & UNDERRIDGE RD., CONNEAUT, ASHTABULA COUNTY, OHIO

Date: 2022-10-07
Scale: AS SHOWN
Filename: 22048
Drawn by: SRB

