



REPLY TO  
ATTENTION OF:

**DEPARTMENT OF THE ARMY**  
CHICAGO DISTRICT, CORPS OF ENGINEERS  
231 SOUTH LASALLE STREET  
CHICAGO, ILLINOIS 60604-1437

November 7, 2018

Technical Services Division  
Regulatory Branch  
LRC-2018-00527

SUBJECT: Jurisdictional Determination for a property located at Wicker Road and Standard Drive, St. John, Lake County, Indiana

Bruce Boyer  
Boyer Properties, Inc.  
9901 Express Drive  
Highland, Indiana 46322

Dear Mr. Boyer:

This is in response to your request that the U.S. Army Corps of Engineers complete a jurisdictional determination for the above-referenced site submitted on your behalf by Gary R Weber Associates. The subject project has been assigned number LRC-2018-527. Please reference this number in all future correspondence concerning this project.

Following a review of the information you submitted, this office has determined that the subject property does not contain "waters of the United States".

The naturalized detention basin and associated channels have been determined to be isolated because they have no discernible connection to Water of the US and therefore not subject to Federal regulation.

This determination covers only your project as depicted in the Wetland Delineation Report dated June 27, 2018, prepared by Gary R Weber Associates, Inc. This office concurs with the submitted wetland delineation, and wetland boundaries at the subject site. This confirmation of is valid for a period of five years from the date of this letter unless new information warrants revision of the delineation prior to the expiration date.

This determination is valid for a period of five (5) years from the date of the letter, unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.

This letter is considered an approved jurisdictional determination for your subject site. If you object to this determination, you may appeal, according to 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and a Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form to the Great Lakes/Ohio River Division Office at the following address:

Jacob Siegrist  
Regulatory Appeals Review Officer  
US Army Corps of Engineers  
Great Lakes and Ohio River Division  
550 Main Street, Room 10524  
Cincinnati, Ohio 45202-3222  
Phone: (513) 684-2699 Fax: (513) 684-2460

In order to be accepted, your RFA must be complete, meet the criteria for appeal and be received by the Division Office within sixty (60) days of the date of the NAP. If you concur with the determination in this letter, submittal of the RFA form to the Division office is not necessary.

This determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. Pursuant to Section 404 of the Clean Water Act, the U.S. Army Corps of Engineers regulates the discharge of dredged or fill material into waters of the United States, including wetlands. A Department of the Army permit is required for any proposed work involving the discharge of dredged or fill material within the jurisdiction of this office. To initiate the permit process, please submit a joint permit application form along with detailed plans of the proposed work. Information concerning our program, including the application form and an application checklist, can be found at and downloaded from our website: <http://www.lrc.usace.army.mil/Missions/Regulatory.aspx>.

Please note that the Indiana Department of Environmental Management (IDEM) regulates isolated waters that are not under the jurisdiction of the U.S. Army Corps of Engineers. Consequently, you must obtain approval from IDEM for isolated wetland impacts. You may contact IDEM as follows:

Indiana Department of Environmental Management  
Office of Water Quality  
Attn: Mr. Marty Maupin  
100 N. Senate Ave.  
Indianapolis, IN 46204  
[mmaupin@idem.in.gov](mailto:mmaupin@idem.in.gov)

If you have any questions, please contact Stasi Brown of my staff by telephone at (312) 846-5544, or email at [stasi.f.brown@usace.army.mil](mailto:stasi.f.brown@usace.army.mil).

Sincerely,

A handwritten signature in blue ink, appearing to read "Keith L. Wozniak".

Keith L. Wozniak  
Chief, Regulatory Branch

Copies Furnished:

Indiana Department of Environmental Management (Mr. Maupin)  
Gary R Weber Associates, Inc. (Ellen Raimondi)

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: Bruce Boyer – Boyer Construction Group		File Number: LRC-2018-527	Date: Nov 7, 2018
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](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 or a Letter of Permission (LOP), you may sign the permit document and return it to the district engineer for final authorization. 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 or a Letter of Permission (LOP), you may sign the permit document and return it to the district engineer for final authorization. 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:

Regulatory Branch  
Chicago District Corps of Engineers  
231 South LaSalle Street, Suite 1500  
Chicago, IL 60604-1437  
Phone: (312) 846-5530  
Fax: (312) 353-4110

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

Division Review Officer, CELRD-PD-REG  
Great Lakes and Ohio River Division  
550 Main Street, Room 10524  
Cincinnati, OH 45202-3222  
Phone: (513) 684-6212  
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.

<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>
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**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 07-Nov-2018**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Chicago District, LRC-2018-527, Wicker Avenue, St. John, Indiana

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** The project area (approximately 23 acres in size) is located on Wicker Rd. in St. John, IN (Exhibit A: Location Map). It is generally bounded by commercial buildings to the north and south, railroad tracks to the east, and Wicker Rd. to the west. The site is located within the Bull Run-West Creek watershed in the Kankakee River Basin. A historically excavated basin exists in the eastern portion of the project area. The basin is dominated by wetland vegetation. Additionally, two channels were excavated and directed to the basin area that historically did not connect. The excavated basin is approximately 4 acres, and connected to channels in the north and southwest. A majority of the northern boundary of the basin consists of constructed steep slopes. Two earthen berms appear to divide the basin. The berm along the southern portion has a culvert that was previously piped underground and extended south. Sections of broken clay pipe are found throughout this area. The basin is primarily vegetated by Cattails ( *Typha* sp ), Reed Canary Grass ( *Phalaris arundinacea* ), Common Reed ( *Phragmites australis* ), Willow species ( *Salix* sp .) and Silver Maples ( *Acer saccharinum* ). A site visit shows the basin, and the connected channels to be isolated from Waters of the US, including St. John Ditch which flows to the southwest of the project area.

State: Indiana County/parish/borough: **Lake** City: St. John  
Center coordinates of site (lat/long in degree decimal format): Lat. 41.442829°N, Long. -87.4567360° W.  
Universal Transverse Mercator: Zone 16

Name of nearest waterbody: St. John Ditch

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Kankakee River**

Name of watershed or Hydrologic Unit Code (HUC): **Kankakee (07120001)**

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.  
 Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

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

- Office (Desk) Determination. Date: 15-Oct-2018  
 Field Determination. Date(s): 16-Jul-2018

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **Are no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **Are no** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**2. Non-regulated waters/wetlands (check if applicable):<sup>1</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain:

**SECTION III: CWA ANALYSIS**

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>2</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.  
 from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.  
 which are or could be used for industrial purposes by industries in interstate commerce.  
 Interstate isolated waters. Explain:  
 Other factors. Explain:

**Identify water body and summarize rationale supporting determination:**

Provide estimates for jurisdictional waters in the review area (check all that apply):

<sup>1</sup> Supporting documentation is presented in Section III.F.

<sup>2</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Tributary waters: linear feet width (ft).
- Other non-wetland waters: acres.  
Identify type(s) of waters: .
- Wetlands: acres.

F. **NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
- Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
- Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): 550 linear feet 3 width (ft).
- Lakes/ponds: 4 acres.
- Other non-wetland waters:            acres. List type of aquatic resource: .
- Wetlands:            acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams):            linear feet,            width (ft).
- Lakes/ponds:            acres.
- Other non-wetland waters:            acres. List type of aquatic resource: .
- Wetlands:            acres.

**SECTION IV: DATA SOURCES.**

A. **SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant:
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report. July 2018
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas; Dyer HA 301, 1968,
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: ,
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Web Soil Survey.
- National wetlands inventory map(s). Cite name: St. John .
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: Panel No. 18089C0229E.
- 100-year Floodplain Elevation is:            (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): .
  - or  Other (Name & Date): Site photos taken by consultant July 2018.
- Previous determination(s). File no. and date of response letter: .
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): Site visit to walk site and search for hydrologic connection 16-Jul-2018.

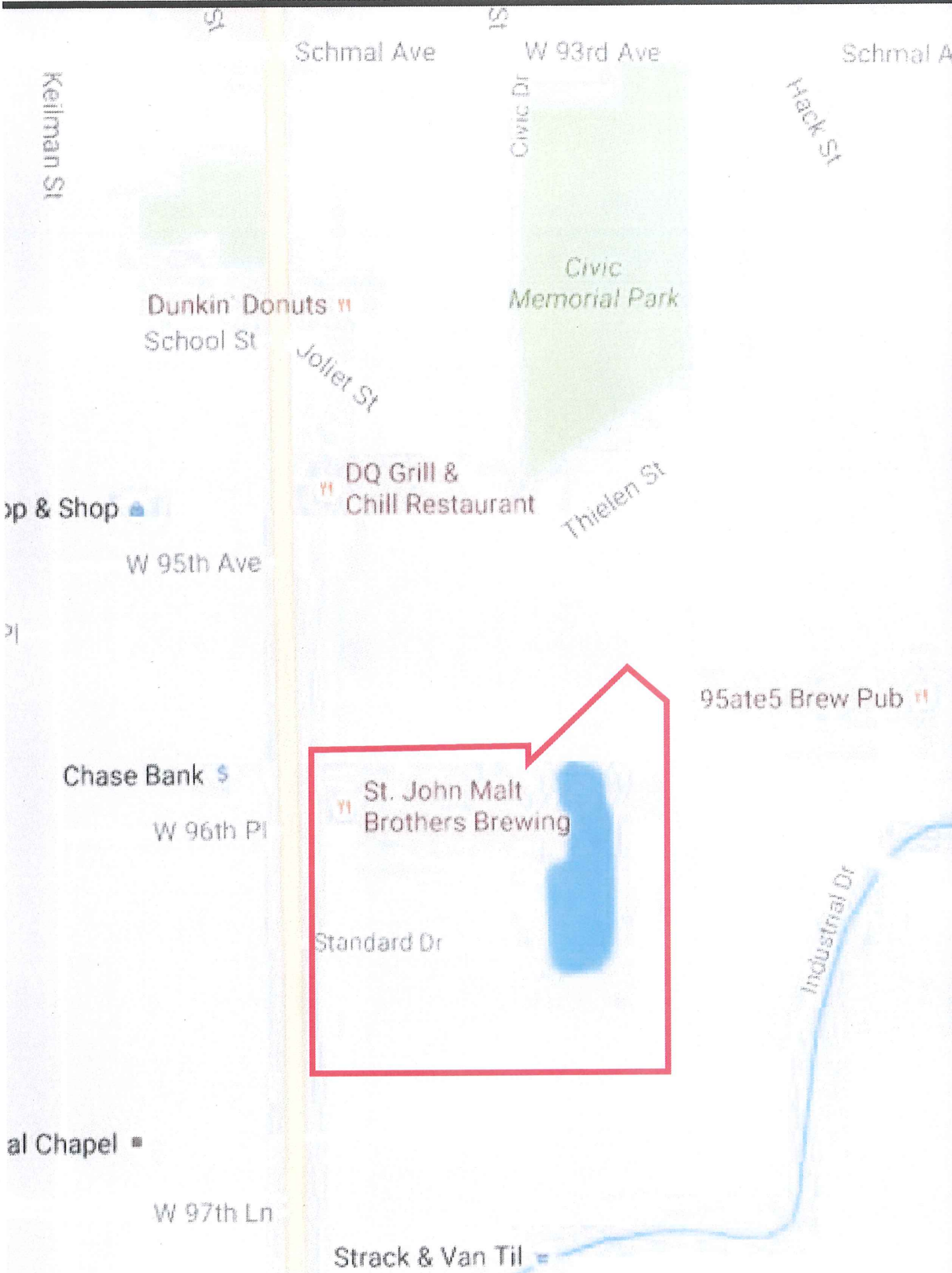
B. **ADDITIONAL COMMENTS TO SUPPORT JD:** A site visit showed the site to have significant hydrologic connection to Waters of the US. The site and it's surrounding area have been heavily manipulated and urbanized in recent years. Because of this development, the basin and channels have been left isolated from other major waterbodies in the area..

- Area(s) are geographically isolated.
- Area(s) do not have a hydrologic nexus.
- Area(s) do not have an ecological nexus.
- Area(s) do not have evidence of a subsurface flow connection to a jurisdictional water.
- Area(s) do not have evidence of surface overland sheet flow.
- Area(s) are not located within the flood plain.



# 23 ACRE ST. JOHN SITE

ST. JOHN, INDIANA



### LOCATION MAP

Source: Google Maps  
Section S33 T35N R9W  
Latitude: 41.442829  
Longitude: -87.4567360

### LEGEND:

Project Area

Boyer Construction  
Group, Corp.  
Highland, IN



NORTH

## Exhibit A