



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

REPLY TO

March 26, 2012

Regulatory Branch

«AddressBlock»

SUBJECT: U.S. Army Corps of Engineers Regulatory Role in Activities Associated with Oil and Natural Gas Production and Distribution and Development of Class II Injection Wells

Dear Industry Operator:

The purpose of this letter is to advise you of the U.S. Army Corps of Engineers (USACE) regulatory role as it applies to activities associated with oil and natural gas production and distribution, and development of Class II injection wells. Through our regulatory authorities the USACE is charged with protecting the nation's regulated aquatic resources while allowing reasonable and necessary development that impacts those resources to go forward. Our intent is to develop and maintain an open dialogue with those in the oil and gas industry to provide early coordination during project planning to ensure that project related impacts to regulated aquatic resources are avoided, minimized, or mitigated and that the proposal is in compliance with applicable regulatory requirements.

Under Section 404 of the Clean Water Act (33 USC 1344), the USACE regulates the discharge of dredged or fill material into Waters of the United States (WOUS). Under Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403), the USACE has regulatory authority over all work or structures in, over, or under navigable WOUS. Each USACE District maintains a list of navigable WOUS on their websites listed below.

WOUS are defined in 33 CFR 328 and may include lakes, rivers, streams (ephemeral, intermittent, perennial), mudflats, vegetated shallows, ditches, ponds, and wetlands. While some rivers, streams, lakes and wetlands are clearly jurisdictional WOUS, in many instances, the USACE can only make the determination of whether an aquatic resource is a WOUS after a site-specific analysis.

Many of the activities associated with oil and natural gas production and distribution, and development of Class II injection wells, could include impacts to aquatic resources that would require authorization from the USACE prior to initiating work. Regulated impacts to aquatic resources from these activities would include the placement of dredged or fill material within WOUS associated with, but not limited to, construction of utility line crossings, access roads

SUBJECT: U.S. Army Corps of Engineers Regulatory Role in Activities Associated with Oil and Natural Gas Production and Distribution and Development of Class II Injection Wells

(including upgrades to existing roads), distribution pipelines, well pads, water impoundments, and intake and outfall structures. Further, any work activity proposed in, over, or under a navigable WOUS requires authorization regardless of whether the activity involves the placement of dredge or fill material.

The USACE does not regulate the subsurface drilling or hydraulic fracturing operation themselves, unless the operation is beneath navigable waters or involves a discharge of fill such as drilling mud in a WOUS. Further, the USACE has no jurisdiction over the treatment and discharge of effluents associated with the operation such as wastewater.

It will be extremely beneficial for applicants to utilize a qualified professional delineator/consultant to identify any aquatic resources that may be present within the project review area. The delineator/consultant should perform a formal delineation to flag, locate, describe, and map all aquatic resources (wetlands, streams, swales, ditches, conveyances, culverts, etc.). Wetlands must be delineated in accordance with the 1987 Corps of Engineers Wetland Delineation Manual and appropriate Regional Supplement. Upon receipt of the completed delineation report, the USACE will verify the location and boundaries of aquatic resources identified in the report and will prepare either an approved or preliminary jurisdictional determination. Note that only the USACE has the authority to determine the jurisdictional status of an identified aquatic resource. Aquatic resources not under federal jurisdiction may be regulated by the Ohio EPA.

The completed delineation report may be submitted to the USACE prior to or concurrently with the Department of the Army permit application. USACE site visits to review delineations are scheduled as soon as possible pending suitable field conditions.

Should work begin in an area which is within Department of the Army jurisdiction without proper authorization, you may incur a violation of Federal law. If that happens, your project may be stopped, a full or partial restoration of the jurisdictional area may be required, and/or you may be subject to civil penalties.

The Buffalo District strongly advises that any prospective party associated with oil and natural gas production or distribution, or development of Class II injection wells within Ohio, contact the appropriate USACE staff as early as possible in the planning process to discuss the proposal and potential permit requirements. Requesting a pre-application meeting with the appropriate staff is the ideal means of obtaining preliminary feedback on proposed projects. See below for a map and contact information for staff in the Buffalo, Huntington, and Pittsburgh Districts with regulatory responsibilities for these types of projects in the state of Ohio.

SUBJECT: U.S. Army Corps of Engineers Regulatory Role in Activities Associated with Oil and Natural Gas Production and Distribution and Development of Class II Injection Wells

Contact: Michael W. Smith
USACE Buffalo District Office
Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207
Telephone: 716-879-4262
Michael.w.smith@usace.army.mil
<http://www.lrb.usace.army.mil/regulatory/>

Contact: Nancy Mullen
USACE Pittsburgh District Office
Regulatory Branch
William S. Moorhead Federal Building
1000 Liberty Avenue, Suite 2000
Pittsburgh, PA 15222
Telephone: 412-395-7170
Nancy.j.mullen@usace.army.mil
<http://www.lrp.usace.army.mil/regulatory/>

Contact: Susan Fields
USACE Huntington District Office
Regulatory Branch
502 Eighth Street
Huntington, West Virginia 25701-2070
Telephone: 304-399-5325
Susan.a.fields@usace.army.mil
<http://www.lrh.usace.army.mil/regulatory/>

Thank you for your attention to this matter.

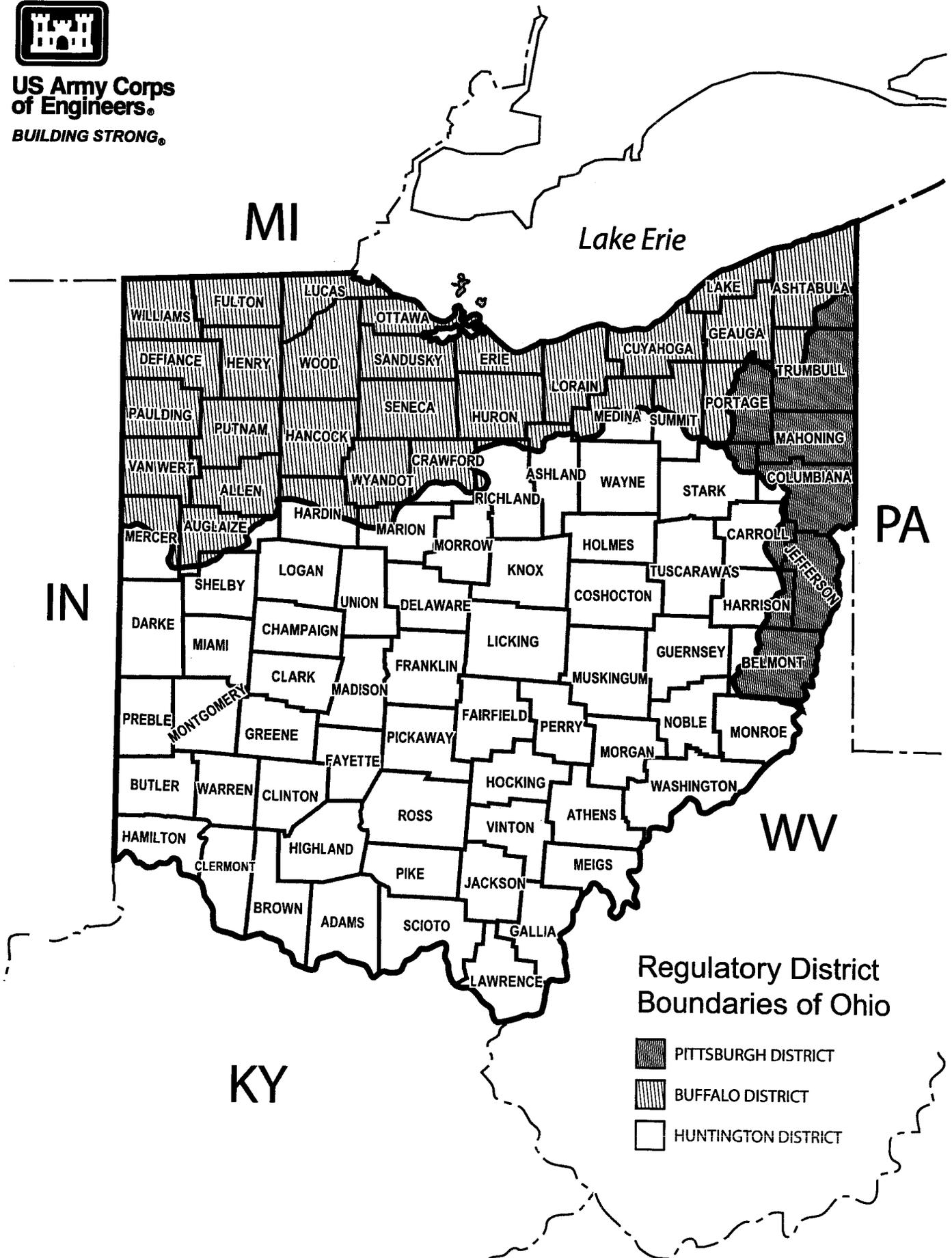
Sincerely,



For Diane C. Kozlowski
Chief, Regulatory Branch
USACE Buffalo District Office



**US Army Corps
of Engineers.**
BUILDING STRONG.



Regulatory District Boundaries of Ohio

-  PITTSBURGH DISTRICT
-  BUFFALO DISTRICT
-  HUNTINGTON DISTRICT