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July 31, 2014

Lesta M. Ammons
Biologist
USACE Buffalo District
Regulatory Branch
1776 Niagara Street
Buffalo, New York 14207

Re: Application No. 1990-97632
772 North Forest Road, Town of Amherst, Erie County, New York
AND
Joint Application for Permit and project site plans at 4176 – 4188 Sheridan Drive, Town of Amherst,
Erie County, New York

Dear Ms. Ammons:

Per our telephone conversation, this letter is to formally request a review of the wetlands determination regarding Application No. 1990-97632 dated April 22, 2013 based on “new information” as submitted to you by Earth Dimensions, Inc. under an application for permit at 4176 – 4188 Sheridan Drive, Town of Amherst, Erie County, New York dated May 19, 2014 as referenced above.

Under Application No. 1990-97632 Earth Dimensions, Inc. states on page 16 of their Recommendations that “Wetlands 1 through 10 are not connected to waters of the U.S. and would therefore be considered isolated.” The USACE’s determination agreed stating “there is no clear surface water connection or ecological continuum between Wetland 1 through 10 on the parcel and a surface tributary system to a navigable water of the United States” in their letter dated April 22, 2013. In this same letter it is also stated that the “verification was confirmed on November 8, 2012 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 EXPIRATION.”

The “new information” I am now respectfully submitting can be found on Earth Dimensions, Inc. report to you submitted with the application for permit at 4176 – 4188 Sheridan Drive, Town of Amherst, Erie County, New York on May 19, 2014. On page 12 under Results and Conclusions it is stated that the wetlands on these properties “Wetlands 1 and 2 are interconnected to the ditch (ditch 1) THAT FLOWS TO THE SOUTH AND EAST, EVENTUALLY EMPTYING INTO ELLICOTT CREEK.” These wetlands and ditch would be the wetlands and ditch that connect to Wetland 9 found on Earth Dimensions Delineation Map submitted to you under Application No. 1990–97632.

Given this new information, I now submit to the USACE that there is a connection to surface tributary system to a navigable water of the United States on both the properties located at 4176 – 4188 Sheridan Drive and 772 North Forest Road, Town of Amherst, Erie County, New York, and that they are regulated wetlands, and that determinations should now be made based on this fact.

Please be advised that I will submit this request to you via e-mail per your instructions, as well as mail same to you and all other interested parties. Thank you for your time and attention to this matter.

Sincerely,

Sandra M. Koerber

c.c. Gary Black, Ass't. Director Amherst Town Planning Dept.
Ellen Kost, Amherst Town Planning Dept.
Dr. Barry A. Weinstein, M.D., Supervisor Town of Amherst
Councilmember Guy R. Marlette, Town of Amherst
Councilmember Ramona D. Popowich, Town of Amherst
Councilmember Steven D. Sanders, Town of Amherst
Councilmember Mark A. Manna, Town of Amherst
✓Andrew J. Shaevel, Mensch Capital Partners, LLC
Jay Ayoub, Elite Construction Development Corp.