

INFORMATION SHEET – CONTINUED

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

DISTRICT OFFICE: Philadelphia

FILE NUMBER: CENAP-OP-R-200300363-63

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraph 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):

1. This 108 acres site consists of agricultural and forested land. There is one large jurisdictional wetland/water complex located on the property consisting of 17.38 acres. This area is mainly forested and contains several braided stream channels. There are two non-jurisdictional wetlands on the site totaling approximately 0.09 acre in size.

2. The two wetland areas considered non-jurisdictional were examined for navigability. Since both wetlands have very little standing water and are primarily vegetated it was determined that navigation was not a possibility. These wetlands are too small to be used for interstate or foreign commerce, they are too small to contain fish or other aquatic species or be used for recreational purposes. These non-jurisdictional wetlands are located far enough away as to prohibit water from these wetlands entering the nearest water of the U.S. The jurisdictional areas are contiguous with unnamed tributaries to the Bushkill Creek.

3. From 33 CFR 328.3(a) the following commerce determinations have been made in regard to the two non-jurisdictional wetland areas: a) They are not tidal; b) They are not interstate waters, but are located entirely within the state of Pennsylvania; c) They are not interstate waters that the use, degradation, or destruction of which could effect interstate or foreign commerce; d) They can not be used by interstate or foreign travelers for recreation or other purposes at the property is private; e) They could not be used for the harvesting or selling of fish or shellfish in interstate or foreign commerce; f) They could not be used for industrial purposes by industries in interstate commerce; g) They are not impoundments of waters described above; h) They are not a tributary to waters of the U.S.; and i) They are not a part of the territorial sea.

4. The jurisdictional waters of the U.S. on the site are mainly forested or scrub shrub wetlands. The braided channels on the site vary in width from approximately 6 inches in size to 2 feet. The site does contain springs. All jurisdictional wetlands on the site are contiguous with tributaries that flow into the Bushkill Creek and eventually the Delaware River.