

INFORMATION SHEET
 DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
 RESULTING FROM 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-200400948-35

REGULATORY PROJECT MANAGER: Michael H. Hayduk Date: July 21, 2004

PROJECT REVIEW/DETERMINATION COMPLETED: In the office (Y/N) Date:
 At the project site Y (Y/N) Date: August 29, 2002

PROJECT LOCATION INFORMATION:

State: Pennsylvania

County: Delaware

Center coordinates of site by latitude & longitudinal coordinates: 39-52-14; 75-17-50

Approximate size of site/property (including uplands & in acres): 8.6 acres

Name of waterway or watershed: Darby Creek

SITE CONDITIONS:

| Type of aquatic resource ¹ | 0-1 ac | 1-3 ac | 3-5 ac | 5-10 ac | 10-25 ac | 25-50 ac | > 50 ac | Linear feet | Unknown |
|---------------------------------------|--------|--------|--------|---------|----------|----------|---------|-------------|---------|
| Lake | | | | | | | | | |
| River | | | | | | | | | |
| Stream | | | | | | | | | |
| Dry Wash | | | | | | | | | |
| Mudflat | | | | | | | | | |
| Sandflat | | | | | | | | | |
| Wetlands | X | | | | | | | | |
| Slough | | | | | | | | | |
| Prairie pothole | | | | | | | | | |
| Wet meadow | | | | | | | | | |
| Playa lake | | | | | | | | | |
| Vernal pool | | | | | | | | | |
| Natural pond | | | | | | | | | |
| Other water (identify type) | | | | | | | | | |
| _____ | | | | | | | | | |

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

| Migratory Bird Rule Factors ¹ : | If Known | | If Unknown Use Best Professional Judgment | | |
|---|----------|----|--|-----------------------|--------------------------------|
| | Yes | No | Predicted to Occur | Not Expected to Occur | Not Able To Make Determination |
| Is or would be used as habitat for birds protected by Migratory Bird Treaties? | X | | | | |
| Is or would be used as habitat by other migratory birds that cross state lines? | X | | | | |
| Is or would be used as habitat for endangered species? | | X | | | |
| Is used to irrigate crops sold in interstate commerce? | | X | | | |

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION: Preliminary _____ Or Approved X .

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

INFORMATION SHEET – CONTINUED

DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WEATERS
RESULTING FROM THE U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORHTERN COOK
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CENAP-OP-R (1145)

July 21, 2004

MEMORANDUM FOR RECORD

SUBJECT: CENAP-OP-R-200400948-35 (formerly 200201246-35)
Tinicum Land Vest LLC

1. Site Identification: Darby Creek, Tinicum Township, Delaware County, PA,
Tax Map Parcel 45-06-101 and 102
2. Field Meeting/Visit Date: August 29, 2002
Persons in Attendance: Michael H. Hayduk, Corps; Jim Schmid, Schmid and Company Inc.
3. Findings: The site is situated in a highly urbanized area south of the Philadelphia International Airport in the Westinghouse Village/Essington section of Tinicum Township. I-95 and associated ramps border the site to the north and west. Darby Creek and the John Heinz National Wildlife Refuge are located on the opposite side of I-95 from this site. The site itself is comprised of scrubby woodlands dominated by invasive species and grass fields on top of made land. Many pits, motorcycle trails and junk/debris piles can be found on this site. The wetlands found on the site are predominantly dominated by *Phragmites communis* and *Polygonum perfoliatum*.

One of the wetlands found on the site, and depicted on the plan, is located along the on-ramp for I-95. A ditch, also depicted on the plan, was observed leaving the wetland and entering into a culvert under the on-ramp. According to Mr. Schmidt, this culvert eventually connects to Darby Creek via a drainage system under the highway. This makes the wetland and ditch part of a surface tributary system subject to Federal jurisdiction in 33 CFR 328.3(a)(5&7). The plan depicts this area as “Waters of the U.S. including wetlands”.

Two other wetlands, approximately 0.6 acres and 0.01 acres, were found on the site. These wetlands are hydrologically isolated (i.e., no connection exists between these wetlands and another water). Water is directed into this area from the surrounding urban development and is detained. These wetlands are located approximately 320 feet from the ditch that enters the culvert system under I-95. Darby Creek is over 1,000 feet away. These wetlands are not used for recreation, fishing, shell fishing, industrial or commercial purposes, timbering, mineral extraction or any other interstate or foreign commerce. As such, these wetlands are not subject to Federal regulations contained in 33 CFR 328.3(a). The plan depicts these areas as “Wetlands not subject to Corps of Engineers jurisdiction”.

4. Recommendations: The undersigned recommends sending a letter to Mr. Schmid stating his assessment of the property for waters of the U.S. is accurate.

Michael H. Hayduk, Biologist