



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

PHILADELPHIA DISTRICT CORPS OF ENGINEERS
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390

24 Apr 2018

Regulatory Branch
Applications Section II

SUBJECT: CENAP-OP-R 2018-00025 (91)
Project Name: Gunderud Hans & Henrietta WA
Latitude and Longitude: 41.430570 ° N, -75.352727 ° W

Mr. Hans Gunderud
1078 Church Road
Saugerties, NY 12477

Dear Mr. Gunderud:

This letter is written with regard to your request for a jurisdictional determination located on your property at 1304 Lakeview Drive West (Tax Map #: 12-0-0019-0070). The project site is located immediately southwest of the intersection of Brookfield Rd. and Lakeview Drive West, Lake Township, Wayne County, Pennsylvania

Pursuant to Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, a Department of the Army permit is required for work or structures in navigable waters of the United States and the discharge of dredged or fill material into waters of the United States including adjacent and isolated wetlands. Any proposal to perform the above activities within the area of Federal jurisdiction requires the prior approval of this office.

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participating in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

A site inspection was conducted by a representative of this office on the above mentioned property on 18 Apr 2018. It was determined that no federally regulated waters, including wetlands, were present on the above mentioned property. Therefore, this office has no geographic jurisdiction on the aforementioned property. As such, a Department of the Army permit is NOT required for the discharge of dredged and/or fill material or to perform work and/or place structures on the aforementioned property. The basis of our determination of jurisdiction is also provided (Enclosure 1).

This letter is valid for a period of five (5) years. This jurisdictional determination is issued in accordance with current Federal regulations and is based upon the existing site conditions and information provided by you in your application. This office reserves the right to reevaluate and modify the jurisdictional determination at any time should the existing site conditions or Federal regulations change, or should the information provided by you prove to be false, incomplete or inaccurate.

This letter contains an approved jurisdictional determination for your subject site. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR 331. Enclosed you will find a combined Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form (Enclosure 2). If you request to appeal this determination, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
Telephone number: 347-370-4650

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by June 22, 2018.

It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

If you have any questions regarding this matter, please contact Mr. Nathan Fronk at 267-284-6564 or write to the Pocono Area Field Office, 253 State Route 435, Suite 4, Clifton Township, Pennsylvania, 18424.

Sincerely,

Glenn R. Weitknecht
Senior Project Manager

Enclosures

Copies Furnished:

PADEP (Northeast Regional Office)
Wayne County Conservation District
Lake Township

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Hans & Henrietta Gunderud		File Number: CENAP 2018-00025	Date: 24 Apr 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/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.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, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. 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, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. 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:

Glenn Weitknecht
(267) 284-6563, or
Glenn.R.Weitknecht@usace.army.mil

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

Mr. James W. Haggerty
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
Telephone number: 347-370-4650

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.

Signature of appellant or agent.

Date:

Telephone number:

DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM¹
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): April 24, 2018

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAP-OP-R 2018-00025 Gunderud Hans & Henrietta WA

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Pennsylvania County/parish/borough: Wayne City: Lake Township
Center coordinates of site (lat/long in degree decimal format): Lat. 41.430570 °, Long. -75.352727 °
Universal Transverse Mercator: [Click here to enter text.](#)

Name of nearest waterbody: Ariel Creek

Name of watershed or Hydrologic Unit Code (HUC): 02040103

- Check if map/diagram of review area is 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: April 20, 2018
- Field Determination. Date(s): April 18, 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.

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.

SECTION III: 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: [Click here to enter text.](#)
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- Office concurs with data sheets/delineation report.
- Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps: [Click here to enter text.](#)
- U.S. Geological Survey Hydrologic Atlas: [Click here to enter text.](#)
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: [Click here to enter text.](#)
- USDA Natural Resources Conservation Service Soil Survey. Citation: Web Soil Survey
- National wetlands inventory map(s). Cite name: NWI Online Viewer
- State/Local wetland inventory map(s): [Click here to enter text.](#)
- FEMA/FIRM maps: [Click here to enter text.](#)
- 100-year Floodplain Elevation is: [Click here to enter text.](#) (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): [Click here to enter text.](#)
- or Other (Name & Date): [Click here to enter text.](#)
- Previous determination(s). File no. and date of response letter: [Click here to enter text.](#)
- Applicable/supporting case law: [Click here to enter text.](#)
- Applicable/supporting scientific literature: [Click here to enter text.](#)
- Other information (please specify): [Click here to enter text.](#)

B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND: The property had undergone historical and recent disturbances. Two old roads, which had reverted back to vegetated cover, were observed on the property. A stone parking lot was present along the eastern side of the property. The property can be characterized as a northern hardwood forest, as defined by the Pennsylvania Natural Heritage Program. A data point was taken at a representative location that characterized the entire site. While the hydrophytic vegetation criterion was met, no evidence of wetland hydrology or field indicators of hydric soils were observed during the site visit. No waters or wetlands were found on the property.

¹ This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.