



®

Regulatory Program



®

INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): November 18, 2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NAP-2018-01037

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Pennsylvania County/parish/borough: Bucks City: Bensalem Twp.

Center coordinates of site (lat/long in degree decimal format): Lat. 40.075109, Long. -74.910981.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: attached in report/map titled (see Section II below).

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1): .

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: .

Office (Desk) and Field Determination. Office/Desk Dates: Field Date(s): 18-MAR-2019.

SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: Plan prepared by Weston Solutions; dated 05/15/19, with one revision (11/11/19); entitled "WATERS OF THE U.S. INCLUDING FEDERALLY REGULATED WETLANDS PHILADELPHIA AUTOPORT FACILITY SITE 2 DEVELOPMENT ...".

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date: Wetlands Delineation Report dated May 2018 by Patricia Ann Quigley, Inc. Note: An additional area of wetland (identified on survey as "Wetland JB") was added at the time of the inspection.

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon:

Revised Title/Date: .

Data sheets prepared by the Corps. Title/Date: .

Corps navigable waters study. Title/Date: .

CorpsMap ORM map layers. Title/Date: .

USGS Hydrologic Atlas. Title/Date: .

USGS, NHD, or WBD data/maps. Title/Date: .

USGS 8, 10 and/or 12 digit HUC maps. HUC number: 02040202 (may also be partially in 02040201).

USGS maps. Scale & quad name and date: Beverly, 1:24000.

USDA NRCS Soil Survey. Citation: Bucks/Philadelphia, Sheet 83.

USFWS National Wetlands Inventory maps. Citation: U.S. FWS web site.

State/Local wetland inventory maps. Citation: .

FEMA/FIRM maps. Citation: FEMA Flood Insurance Rate Map (FIRM) Panel 0508K (Map number 42017C0508K), dated March 21, 2017.

Photographs: Aerial. Citation: Multiple years. or Other. Citation: On-site 18-MAR-2019.

LIDAR data/maps. Citation: .

- Previous JDs. File no. and date of JD letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

SECTION III: SUMMARY OF FINDINGS

Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Water Droplet Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required

A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

- "navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

- **Complete Table 1 - Required**

NOTE: If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

B. CLEAN WATER ACT (CWA) SECTION 404 DETERMINATION OF JURISDICTION: "waters of the U.S." within CWA jurisdiction (as defined by 33 CFR part 328.3) in the review area. **Check all that apply.**

- (a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))

- **Complete Table 1 - Required**

- This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

- (a)(2): All interstate waters, including interstate wetlands.

- **Complete Table 2 - Required**

- (a)(3): The territorial seas.

- **Complete Table 3 - Required**

- (a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

- **Complete Table 4 - Required**

- (a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 5 - Required**

- (a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

- **Complete Table 6 - Required**

- Bordering/Contiguous.

Neighboring:

- (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.

- (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.

- (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

- (a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required**

- Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- (a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 8 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

C. NON-WATERS OF THE U.S. FINDINGS:

Check all that apply.

- The review area is comprised entirely of dry land.
- Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

- **Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required**

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

- Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):

- **Complete Table 10 - Required**

(b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

(b)(2): Prior converted cropland.

(b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

(b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).

(b)(4)(i): Artificially irrigated areas that would revert to dry land should application of water to that area cease.

(b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.

(b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.¹

(b)(4)(iv): Small ornamental waters created in dry land.¹

(b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water.

(b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of tributary, non-wetland swales, and lawfully constructed grassed waterways.¹

(b)(4)(vii): Puddles.¹

(b)(5): Groundwater, including groundwater drained through subsurface drainage systems.¹

(b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.¹

(b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

- Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).

- **Complete Table 11 - Required.**

D. ADDITIONAL COMMENTS TO SUPPORT AJD: As noted below in Tables 1 and 6, the 9.5-acre study area contains waters of the Delaware River (0.051 acre), immediately below the mouth of the Neshaminy Creek, which are subject to the ebb and flow of the tide. The limits of federal jurisdiction along the river's edge are the high tide line

¹ In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area.

(HTL) under Section 404, and the mean high water line (MHWL) for Section 10. The wetlands in question, identified by the applicant as Wetlands A, B and "JB" ("C" for identification purposes in ORM), are 0.175, 0.115 and 0.068 acre in size, respectively. They are situated approximately 180, 300 and 60 feet, respectively, from the HTL of the Delaware River, which is subject to the ebb and flow of the tide (i.e. regulated under 33 CFR 328.3(a)(1) and 33 CFR 329.4). As noted on FEMA Flood Insurance Rate Map (FIRM) Panel 0508K (Map number 42017C0508K), dated 21 March 2017, Based on historic aerial photography as well as topographic maps, the current land configuration was created by the discharge of dredged material from the 1930s to the 1950s. The wetland is within a basin surrounded by the former dikes or berms of the dredged material disposal area. Portions of the basin area are within the 100-year flood plain, and other portions of the basin are within the 500-year flood plain. Based on their proximity to tidal waters (i.e. less than 1,500 feet from the HTL), the wetlands are regulated as Waters of the U.S pursuant to the 2015 CWR (i.e. (a)(6) adjacent waters – neighboring (c)(2)(iii), or waters type "A6N3HWP"). There are no other waters or wetlands located within the limits of the 9.5-acre study area identified by the applicant.

Jurisdictional Waters of the U.S.

Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation Include High Tide Line or Ordinary High Water Mark indicators, when applicable.
NAP-2018-1037 PRPA NSP Delaware River	The waterbody is subject to Section 9 or 10 of the Rivers and Harbors Act	Waters of the Delaware River, immediately down-river from the mouth of Neshaminy Creek, subject to the ebb and flow of the tide, below the HTL and the MHWL; regulated as Waters of the U.S. under 33 CFR 328.3(a)(1) and 33 CFR 329.4.

Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation
N/A	N/A

Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation
N/A	N/A

Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A
N/A	N/A

Table 5. (a)(5) Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A

Table 6. (a)(6) Adjacent Waters

(a)(6) Waters Name	(a)(1)-(a)(5) Water Name to which this Water is Adjacent	Rationale for (a)(6) Designation and Additional Discussion. Identify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.
NAP-2018-1037 PRPA NSP Wetland A	Delaware River	The wetland in question (identified by the applicant as "Wetland A") is situated approximately 180 feet from the HTL of the Delaware River, which is subject to the ebb and flow of the tide (i.e. an "(a)(1)" water). The wetland is situated within an area that was formerly part of the Delaware River, immediately down-river from the mouth of Neshaminy Creek. Based on historic aerial photography as well as topographic maps, the current land configuration was created by the discharge of dredged material from the 1930s to the 1950s. The wetland is within a basin surrounded by the former dikes or berms of the dredged material disposal area. Portions of the basin area are within the 100-year flood plain, and other portions of the basin are within the 500-year flood plain. Based on its proximity to tidal waters (i.e. less than 1,500 feet from the high tide line of a navigable water), the wetland is regulated as Waters of the U.S pursuant to the 2015 CWR (i.e. (a)(6) adjacent waters – neighboring (c)(2)(iii), or waters type "A6N3HWB").

NAP-2018-1037 PRPA NSP Wetland B	Delaware River	The wetland in question (identified by the applicant as “Wetland B”) is situated approximately 300 feet from the HTL of the Delaware River, which is subject to the ebb and flow of the tide (i.e. an “(a)(1)” water). The wetland is situated within an area that was formerly part of the Delaware River, immediately down-river from the mouth of Neshaminy Creek. Based on historic aerial photography as well as topographic maps, the current land configuration was created by the discharge of dredged material from the 1930s to the 1950s. The wetland is within a basin surrounded by the former dikes or berms of the dredged material disposal area. Portions of the basin area are within the 100-year flood plain, and other portions of the basin are within the 500-year flood plain. Based on its proximity to tidal waters (i.e. less than 1,500 feet from the high tide line of a navigable water), the wetland is regulated as Waters of the U.S pursuant to the 2015 CWR (i.e. (a)(6) adjacent waters – neighboring (c)(2)(iii), or waters type “A6N3HWB”).
NAP-2018-1037 PRPA NSP Wetland C (“Wetland JB” on survey)	Delaware River	The wetland in question (identified by the applicant as “Wetland JB”) is situated approximately 60 feet from the HTL of the Delaware River, which is subject to the ebb and flow of the tide (i.e. an “(a)(1)” water). The wetland is situated within an area that was formerly part of the Delaware River, immediately down-river from the mouth of Neshaminy Creek. Based on historic aerial photography as well as topographic maps, the current land configuration was created by the discharge of dredged material from the 1930s to the 1950s. The wetland is within a basin surrounded by the former dikes or berms of the dredged material disposal area. Portions of the basin area are within the 100-year flood plain, and other portions of the basin are within the 500-year flood plain. Based on its proximity to tidal waters (i.e. less than 1,500 feet from the high tide line of a navigable water), the wetland is regulated as Waters of the U.S pursuant to the 2015 CWR (i.e. (a)(6) adjacent waters – neighboring (c)(2)(iii), or waters type “A6N3HWB”).
N/A	N/A	N/A

Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Non-Jurisdictional Waters

Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the (a)(1)-(a)(3) Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.
N/A	N/A
N/A	N/A

Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A

Waters_Name	State	Cowardin Code	Hgm Code	Meas Type	Amount	Units
2018-1037 PRPA NSP Delaware River	PA	R1US-RIVERINE, TIDAL, UNCONSOL SHORE	Riverine	AREA	0.051	ACRES
2018-1037 PRPA NSP Wetland A	PA	PFO-PALUSTRINE, FORESTED	Depressional	AREA	0.175	ACRES
2018-1037 PRPA NSP Wetland B	PA	PEM-PALUSTRINE, EMERGENT	Depressional	AREA	0.115	ACRES
2018-1037 PRPA NSP Wetland C	PA	PFO-PALUSTRINE, FORESTED	Depressional	AREA	0.068	ACRES

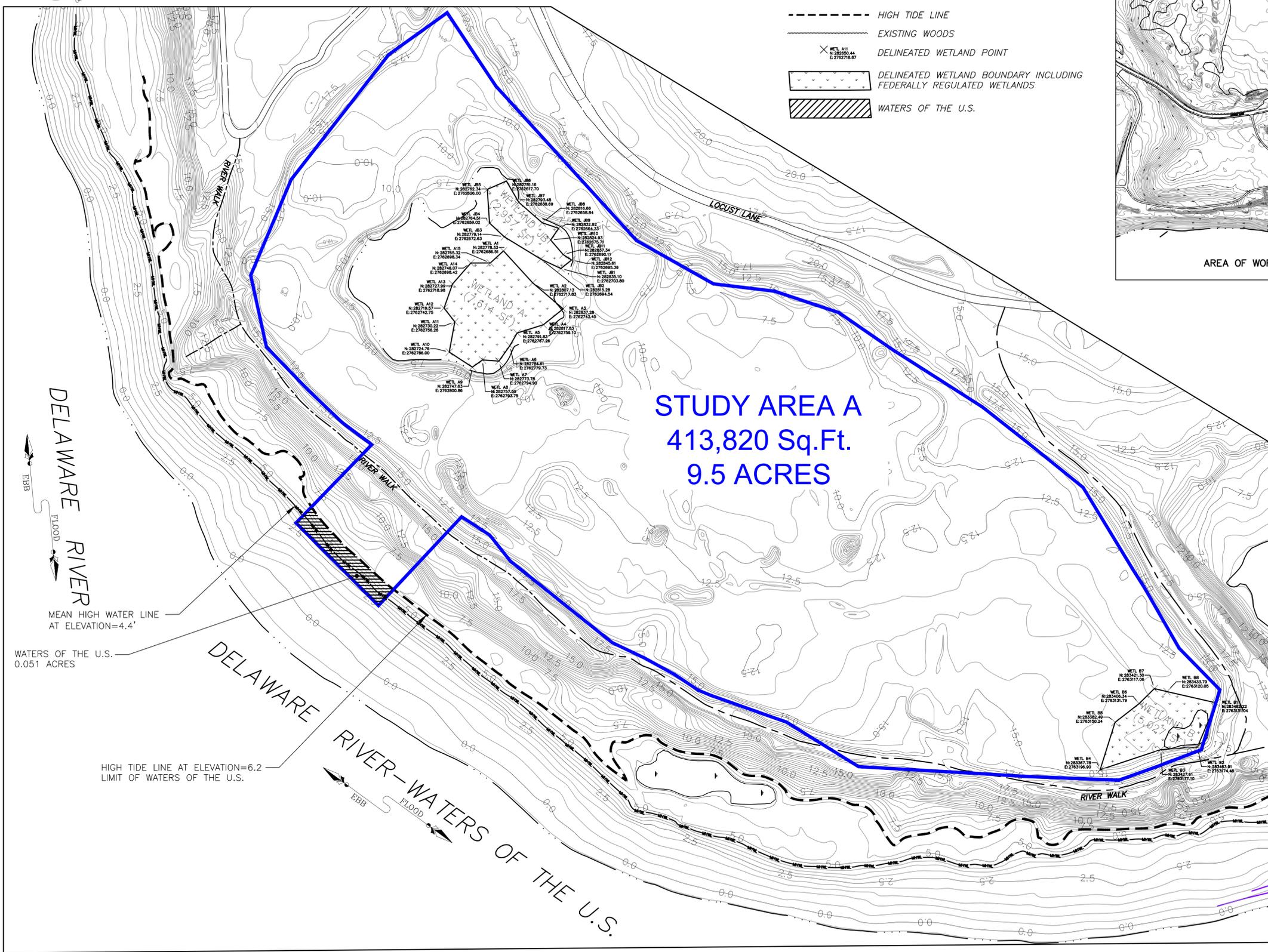
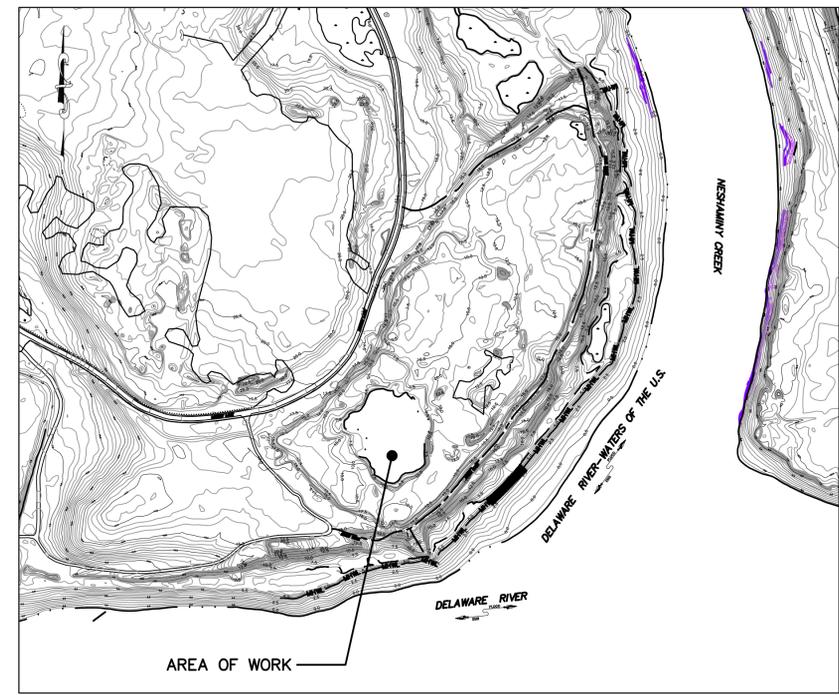
Waters_Type	Latitude	Longitude	Local Waterway
A1	40.074	-74.9109	Delaware River
A6N3HWB	40.07443	-74.9115	Delaware River
A6N3HWB	40.07618	-74.91	Delaware River
A6N3HWB	40.07463	-74.9116	Delaware River

NOTES:

1. WETLAND BOUNDARY SURVEY PERFORMED BY AMERICAN ENGINEERS GROUPS OF PHOENIXVILLE, PA ON 4/12/18 and 5/9/19.
2. TAX PARCEL ID = PORTION OF NO. 02-081-001

LEGEND

- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- LOCUST LANE
- RIVER WALK
- WATER
- HIGH TIDE LINE
- EXISTING WOODS
- DELINEATED WETLAND POINT
- DELINEATED WETLAND BOUNDARY INCLUDING FEDERALLY REGULATED WETLANDS
- WATERS OF THE U.S.



PLAN

SCALE: 1"=50'-0"



SCALE: 1"=50'-0"

WETLAND A BOUNDARY

BOUNDARY SEGMENT	DISTANCE/BEARING
A1-A2	42.55' N47°24'29.28"E
A2-A3	39.56' N40°21'23.81"E
A3-A4	24.96' S38°49'36.41"E
A4-A5	27.25' S17°25'56.88"E
A5-A6	14.41' S59°54'42.47"E
A6-A7	18.64' S54°29'07.99"E
A7-A8	16.23' S4°02'10.69"W
A8-A9	12.24' S35°29'53.57"E
A9-A10	27.27' S33°01'02.87"W
A10-A11	30.24' N79°35'17.58"W
A11-A12	17.20' S51°43'45.70"W
A12-A13	25.22' N70°29'38.66"W
A13-A14	27.38' N48°40'23.59"W
A14-A15	19.25' N0°13'50.44"W
A15-A1	17.59' N42°17'52.05"W

WETLAND B BOUNDARY

BOUNDARY SEGMENT	DISTANCE/BEARING
B1-B2	47.12' S67°07'54.66"E
B2-B3	36.40' S4°09'26.52"E
B3-B4	63.02' S18°18'36.84"E
B4-B5	48.92' N72°30'01.59"W
B5-B6	30.15' N37°42'56.69"W
B6-B7	20.99' N44°33'44.36"W
B7-B8	12.84' N13°26'29.82"E
B8-B1	49.66' N12°47'10.94"E

WETLAND JB BOUNDARY

BOUNDARY SEGMENT	DISTANCE/BEARING
JB1-JB2	21.88' S25°01'26.55"W
JB2-JB3	42.26' S31°13'54.56"W
JB3-JB4	19.98' S42°55'09.40"W
JB4-JB5	33.10' S86°14'14.22"W
JB5-JB6	20.57' N23°46'58.57"W
JB6-JB7	24.33' N59°35'11.84"E
JB7-JB8	30.71' N40°59'40.71"E
JB8-JB9	17.16' N18°39'50.73"E
JB9-JB10	13.90' S54°55'49.21"E
JB10-JB11	19.02' N49°15'47.06"E
JB11-JB12	9.81' N32°31'01.83"E
JB12-JB1	13.46' S38°39'50.72"E

NO.	DATE	REVISION	BY
1	11/11/19	USACE JD REQUEST	EB
2			
3			
4			
5			



WATERS OF THE U.S. INCLUDING FEDERALLY REGULATED WETLANDS

PHILADELPHIA AUTOPORT FACILITY
SITE 2 DEVELOPMENT
THE PORT OF PHILADELPHIA
COMMONWEALTH OF PENNSYLVANIA
PHILADELPHIA, PA

DESIGNED:	E.B.
DRAWN:	K.P.
CHECKED:	E.B.
SCALE:	1"=50'-0"
DATE:	05/15/19
PROJECT:	12769.015.002
DRAWING:	