



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

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

August 23, 2019

Regulatory Branch
Applications Section II

SUBJECT: CENAP-OP-R 2019-00306 (91)

Project Name: Bridge Development Partners East Moorestown Road Block 11 Lot 26 NO
Latitude and Longitude: 40.832105° N, -75.311001° W

Bridge Development Partners, LLC.
c/o Mr. John Porcek
One Gatehill Drive, Suite 201
Parsippany, New Jersey 07054

Dear Mr. Porcek:

This letter is written with regard to your request for verification of a jurisdictional delineation performed on your behalf by DuBois Environmental Services. The project center is located approximately 3,600 feet west of the intersection of State Route (SR) 512 and Interstate 33, Plainfield Township, Northampton County, Pennsylvania.

The plans identified on the following page depict the extent of Federal jurisdiction on the subject property. The basis of our determination of jurisdiction is also provided (Enclosure 1).

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.

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 October 22, 2019.

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 me at 267-284-6564 or write to the Pocono Area Field Office, 253 State Route 435, Suite 4, Clifton Township, Pennsylvania, 18424.

Sincerely,

Nathan R. Fronk
Biologist

SUBJECT PROPERTY: Approved jurisdictional determination is for the wetlands and waters identified in “Wetlands Mapping Plan, Tax Parcel ID F7-11-26-0406, Bridge Point Lehigh North, Situated in Bushkill Township, Northampton County, Pennsylvania”.

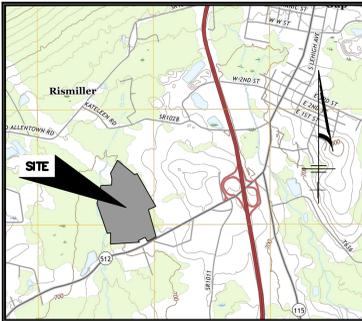
SURVEY DESCRIPTION: “Wetlands Mapping Plan, Tax Parcel ID F7-11-26-0406, Bridge Point Lehigh North, Situated in Bushkill Township, Northampton County, Pennsylvania”, Sheet 1 of 1, Scale: 1” = 100’, Drawn by MZ/WKS of MidAtlantic Engineering Partners, LLC on 8/20/2019. Also identified as “US Army Corps of Engineers, CENAP-OP-R 2019-00306, Approved Plan Sheet 1 of 1”

COMMENTS: Site inspection by representative of this office on June 11, 2019.

Enclosures

Copies Furnished:

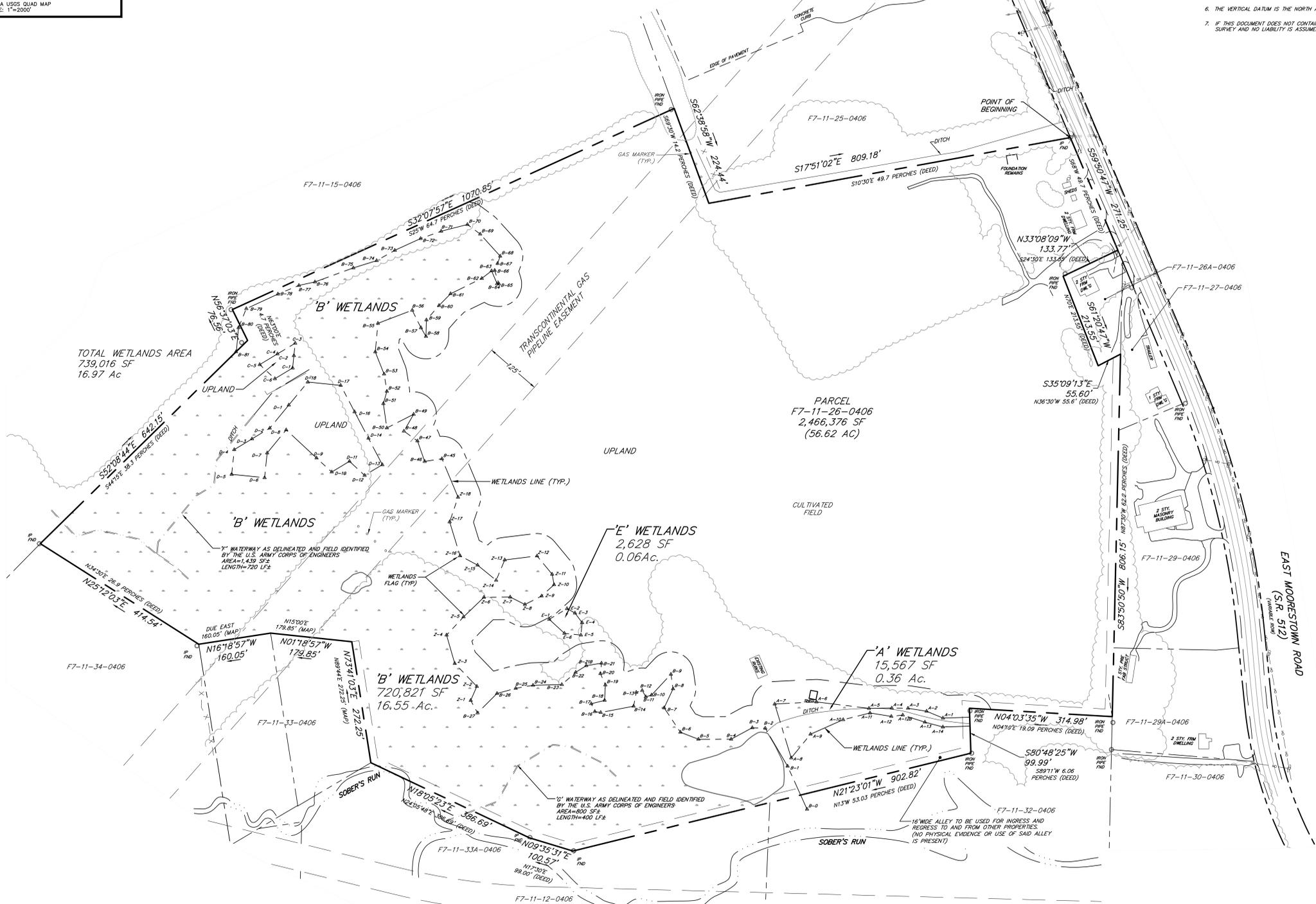
PADEP (NERO)
Northampton County Conservation District
Bushkill Township
DuBois Environmental Consultants



LOCATION MAP
WIND GAP, PA USGS QUAD MAP
SCALE: 1"=200'



- MAP REFERENCES**
- PROPERTY BEING KNOWN AND DESIGNATED AS TAX PARCEL ID F7-11-26-0406 WITHIN BUSHKILL TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA, CONTAINING A TOTAL OF 56.62 ACRES.
 - PLAN ENTITLED "BOUNDARY & TOPOGRAPHIC SURVEY TAX PARCEL ID F7-11-26-0406 BRIDGE POINT LEIGH NORTH..." PREPARED BY MIDATLANTIC ENGINEERING PARTNERS, DATED JUNE 2, 2017.
 - VESTING DEED: DEED BOOK 756 PAGE 1047
- GENERAL NOTES**
- PROPERTY IS LOCATED PARTIALLY IN ZONE X (AREAS OUTSIDE OF THE 0.2% ANNUAL CHANCE OF FLOOD) AND ZONE A (NO BASE FLOOD ELEVATIONS DETERMINED), ACCORDING TO FEMA FLOOD INSURANCE RATE MAPS NUMBERED 42085C01.33E HAVING AN EFFECTIVE DATE OF JULY 16, 2014.
 - ANY UTILITIES SHOWN HEREON ARE BASED ON LOCATION OF VISIBLE SURFACE UTILITIES AND UTILITY MARK-OUTS FOUND IN THE FIELD. THE EXISTENCE AND/OR EXTENT OF THE UTILITIES CANNOT BE VERIFIED. OTHER UTILITIES MAY EXIST. ANY PERSON RELYING ON THIS INFORMATION MUST VERIFY INDEPENDENTLY THE LOCATION AND/OR EXISTENCE OF ANY AND ALL UTILITIES AFFECTING THE AREAS SHOWN HEREON. ALL CONTRACTORS MUST CALL THE PENNSYLVANIA ONE CALL SYSTEM (800-242-1776) IN ACCORDANCE WITH THE UNDERGROUND FACILITIES CONTROL ACT LAW PRIOR TO ANY SUBSURFACE ACTIVITY.
 - TRANSCONTINENTAL GAS PIPELINE EASEMENT SHOWN IS BASED ON THE LOCATIONS OF THE GAS LINE MARKERS AND DESCRIPTIONS FROM MISCELLANEOUS BOOK 319, PAGE 952.
 - WETLANDS FLAGS SHOWN ON THIS PLAN WERE FIELD DELINEATED BY DUBOS ENVIRONMENTAL.
 - THIS PLAN HAS BEEN ROTATED TO THE PENNSYLVANIA STATE PLANE COORDINATE SYSTEM (SOUTH). BEARINGS SHOWN HEREON MAY NOT MATCH PREVIOUSLY RECORDED DEEDS OR MAPS.
 - THE VERTICAL DATUM IS THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988).
 - IF THIS DOCUMENT DOES NOT CONTAIN THE SIGNED SEAL OF THE UNDERSIGNED PROFESSIONAL, IT IS NOT A VALID COPY OF THE SURVEY AND NO LIABILITY IS ASSUMED FOR THE INFORMATION SHOWN HEREON.



TOTAL WETLANDS AREA
739,016 SF
16.97 Ac

PARCEL
F7-11-26-0406
2,466,376 SF
(56.62 AC)

'E' WETLANDS
2,628 SF
0.06 Ac.

'A' WETLANDS
15,567 SF
0.36 Ac.

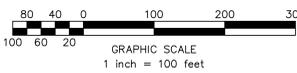
'B' WETLANDS
720,821 SF
16.55 Ac.

LEGEND

- PROJECT BOUNDARY
- EXISTING BUILDING
- EXISTING MAJOR CONTOUR
- EXISTING MINOR CONTOUR
- EXISTING SPOT ELEVATION
- EXISTING SANITARY SEWER LINE
- EXISTING SANITARY SEWER MANHOLE
- EXISTING STORM SEWER LINE
- EXISTING INLET/CATCH BASIN
- EXISTING MANHOLE/STORM GRATE
- EXISTING WATER LINE
- EXISTING WATER VALVE
- EXISTING SPRINKLER BOX
- EXISTING GAS LINE
- EXISTING GAS VALVE
- EXISTING ELECTRIC LINE
- EXISTING UTILITY POLE
- EXISTING FENCELINE
- EXISTING GUIDEWIRE
- EXISTING LIGHT POLE
- EXISTING SIGNAGE
- EXISTING HYDRANT
- EXISTING WETLANDS LINE
- EXISTING WETLANDS FLAG

SURVEY LEGEND

- IRON PIPE FOUND
- IRON PIN/CAPPED IRON PIN FOUND
- MONUMENT FOUND (FM)
- MONUMENT FOUND (NFM)
- STONE FOUND
- CROSS CUT FOUND
- DRILL HOLE FOUND



| | | | | | | |
|---|------------------------------|---------------------|------------------|---------------------|------------|------------------------|
| RELEASED BY: MZ/AMA | CHECKED BY: MZ/AMA | DRAWN BY: MZ/AMA | DATE: 8/20/19 | PROJECT NO.:CPG-144 | REVISIONS: | DRAWN BY / CHECKED BY: |
| VERTICAL SCALE: N/A | HORIZONTAL SCALE: 1"=100' | | | | | |
| | | | | | | |
| WETLANDS MAPPING PLAN TAX PARCEL ID F7-11-26-0406 BRIDGE POINT LEIGH NORTH | | | | | | |
| SITUATED IN BUSHKILL TOWNSHIP, NORTHAMPTON COUNTY, PENNSYLVANIA | | | | | | |
| Sheet Number 1 OF 1 | | | | | | |

File Name: G:\CovPoint Group_V08S\CPG-144 Bushkill\DWG\00-Wetlands_2019.dwg
 Plot Time: Aug 20, 2019 - 8:40am



®

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): August 23, 2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): CENAP-OP-R 2019-00306

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Pennsylvania County/parish/borough: Northampton City: Bushkill Township

Center coordinates of site (lat/long in degree decimal format): Lat. 40.832105, Long. -75.311001.

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

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: 11 Jun 2019 Field Date(s): 14 Aug 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.

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: BLK 11 Lt 26/Moorestown Road: February 13, 2017

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:

USGS maps. Scale & quad name and date:

USDA NRCS Soil Survey. Citation: Web Soil Survey Report provided by applicant

USFWS National Wetlands Inventory maps. Citation: NWI Online Viewer Map provided by applicant

State/Local wetland inventory maps. Citation:

FEMA/FIRM maps. Citation:

Photographs: Aerial. Citation: or Other. Citation: Site Photographs, Block 11, Lot 26, Bushkill Township, Northampton, PA (February/April 2017 and March 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:

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.

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. |
|---------------------------|------------------------|--|
| N/A | Choose an item. | N/A |

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. |
|---------------------------|--------------------|--|-------------------------|---|
| Waterway F | Ephemeral | Sobers Run | No | Waterway F flows directly into Sobers Run, which flows directly into Bushkill Creek. Bushkill Creek is a Traditional Navigable Water (TNW). |
| 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. |
|---------------------------|---|---|
| Wetland A | Sobers Run | Wetland A was determined to be within the 100 year floodplain of Sobers Run. The 100 year floodplain was determined using the Pennsylvania Department of Community and Environmental Development (DCED) Flood Zone Map |
| Wetland B | Sobers Run | Wetland B was determined to be within the 100 year floodplain of Sobers Run. The 100 year floodplain was determined using the Pennsylvania Department of Community and Environmental Development (DCED) Flood Zone Map |
| Waterway G | Sobers Run | Waterway G was determined to be within the 100 year floodplain of Sobers Run. The 100 year floodplain was determined using the Pennsylvania Department of Community and Environmental Development (DCED) Flood Zone Map |
| 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. |
|------------------|---------------------------|---|---|
| Sobers Run | Wetland E | Buskhill Creek | Wetland E is an emergent wetland approximately 0.06 acres in size. The wetland was identified to be approximately 85 feet from the 100 year floodplain and 380 feet from Sobers Run, an (a)(5) water. There are no similarly situated waters within the Single Point of Entry (SPOE) watershed. Land use within the SPOE watershed can be characterized as agricultural. Emergent wetlands play an important role in stormwater storage and pollutant filtering from agricultural fields. |
| N/A | N/A | N/A | N/A |
| 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. |
|-----------|-------------------------------|--|---|
| | | | |
| | | | |

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 |

| F | AR | Regulatory Action Folder | Regulatory Action Folder | Size | Cowardin | HGM | Geometry Type | Local Waterway | SpatialID etails | CM2 Map | Final | Delete | Convert | Add |
|---|----|--------------------------------|--------------------------------|------------|----------|-----|------------------|-------------------|---------------------|---------|-------|-------------------------------------|----------------------|-----|
| | | Water 1 (CWR \ DELINPJD) | | .36 acre | PFO | | Polygon | Wetland A | | | | Impact/JD/ Mitigation Present | Impact/JD Present | |
| | | Water 2 (CWR \ DELINPJD) | | 16.55 acre | PFO | | Polygon | Wetland B | | | | Impact/JD/ Mitigation Present | Impact/JD Present | |
| | | Water 3 (CWR \ DELINPJD) | | .06 acre | PEM | | Polygon | Wetland E | | | | Impact/JD/ Mitigation Present | Impact/JD Present | |
| | | Water 4 (CWR \ DELINPJD) | | .033 acre | R6 | | Line | Waterway F | | | | Impact/JD/ Mitigation Present | Impact/JD Present | |
| | | Water 5 (CWR \ DELINPJD) | | .018 acre | R6 | | Line | Waterway G | | | | Impact/JD/ Mitigation Present | Impact/JD Present | |

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

| | | | |
|---|--|-------------------------------|-----------------------|
| Applicant: Bridge Development Partners, LLC | | File Number: CENAP 2019-00306 | Date: August 23, 2019 |
| 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: