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Regulatory Program



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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 21, 2019

B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NAP-2019-00699

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: Pennsylvania County/parish/borough: Montgomery City: Lansdale

Center coordinates of site (lat/long in degree decimal format): Lat. 40.238222, Long. -75.285408.

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: . Field Date(s): 19-JUL-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 Bohler Engineering; dated "2019.08.13," unrevised; Sheet 1 of 1; entitled "EXISTING CONDITIONS PLAN FOR COMMERCE PURSUIT CAPITAL, L.P.".

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: "WETLAND REPORT FOR COMMERCE PURSUIT CAPITAL;" dated March, 2014, and June 2019; by Nova Consultants, Ltd., with data forms dated 6-17-19.

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: 02040203.

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

USDA NRCS Soil Survey. Citation: Montgomery, Sheet 29.

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), Map number 42091C0256G, dated 02-MAR-2016 .

Photographs: Aerial. Citation: Multiple years. or Other. Citation: On-site 19-JUL-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: This AJD is for a 4-acre (+/-) property within the Borough of Lansdale, of which approximately half the acreage is occupied by an existing large commercial building and associated parking and access area. The remaining areas are mainly wooded, with previously disturbed ground

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.

surface. A well-defined stream channel flows through the site. This channel is an unnamed tributary to Towamencin Creek, which flows into Skippack Creek, thence into Perkiomen Creek, in the Schuylkill River basin. This channel originates up-slope of the property, across railroad tracks that lie along the southeast side of the property. It flows under the railroad via a culvert. Within the site limits, a portion of the stream channel has been relocated due to construction of a large commercial building, and another portion has been enclosed for approximately 90 feet. Nearly all the former channel above (upstream of) the railroad culvert has been developed and enclosed, presumably within the Borough's storm system. Much of the channel downstream of the site (below Blaine Street) has been enclosed (for about 850 feet down to the west side of Broad Street). From Broad Street down, until it joins another tributary to form Towamencin Creek, the stream is open except for road culverts. The on-site channel has clear physical indicators of a bed and banks, as well as an ordinary high water mark (OHWM). It also exhibits these characteristics in the short segment of open channel remaining above the railroad, as well as downstream of the site. As such, based on the above factors, the stream is a tributary that is regulated as Waters of the U.S pursuant to the 2015 CWR (i.e. 33 CFR 328.3(a)(5)). No wetlands were observed on the property. However, there is a drainage feature on the site that comes from a pipe under the adjacent railroad tracks along the southeastern side of the property. This feature flows into the stream described above near the southern corner of the large building on the site. It had flowing water at the time of the 2019 inspection from recent heavy rains. At the time of a previous inspection (in 2008), there was no evidence of recent flows in this drainage feature. There was some limited vegetation colonizing the bottom at that time, and it was determined that the feature lacked an OHWM. Looking at aerial photography (Google Earth), it is noted that after 2008 (after 2011 in fact), a large stormwater basin was constructed across the railroad tracks, which now discharges to this ditch via the pipe under the railroad. The flow that was observed during the current inspection was due to the unusually high rainfall that had just occurred. Given the high level of water flowing at the time, it was difficult to determine if it has an OHWM (and bed and banks). However, it remains a stormwater conveyance feature. As such, it is excluded (i.e. not Waters of the U.S.) pursuant to 33 CFR 328.3(b)(6).

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.
Unnamed Tributary	Perennial	Towamencin Creek	No	<p>The stream is an unnamed tributary to Towamencin Creek, which flows into Skippack Creek, thence into Perkiomen Creek, in the Schuylkill River basin. Within the site limits, a portion of the stream channel has been relocated due to construction of a large commercial building, and another portion has been enclosed for approximately 90 feet. Nearly all the former channel above (upstream of) the off-site (upstream) railroad culvert has been developed and enclosed, presumably within the Borough's storm system. Much of the channel downstream of the site (below Blaine Street) has been enclosed (for about 850 feet down to the west side of Broad Street). From Broad Street down, until it joins another tributary to form Towamencin Creek, the stream is open except for road culverts. The on-site channel has clear physical indicators of a bed and banks, as well as an ordinary high water mark (OHWM). It also exhibits these characteristics in the short segment of open channel remaining above the railroad, as well as the open channel downstream of the site.</p>
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.
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.
Stormwater Conveyance	There is a drainage feature on the site that comes from a pipe under the adjacent railroad tracks along the southeastern side of the property. This feature flows into the stream (described in Table 5 above) near the southern corner of the large building on the site. It had flowing water at the time of the 2019 inspection from recent heavy rains. At the time of a previous inspection (in 2008), there was no evidence of recent flows in this drainage feature. There was some limited vegetation colonizing the bottom at that time, and it was determined that the feature lacked an OHWM. Looking at aerial photography (Google Earth), it is noted that after 2008 (after 2011 in fact), a large stormwater basin was constructed across the railroad tracks, which now discharges to this ditch via the pipe under the railroad. The flow that was observed during the current inspection was due to the unusually high rainfall that had just occurred. Given the high level of water flowing at the time, it was difficult to determine if it has an OHWM (and bed and banks). However, it remains a stormwater conveyance feature.
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	Waters_Type	Latitude	Longitude
2019-699 CPC Tributary	PA	R3UB-RIVERINE, UPPER PEREN, UNCONSOL BOT	Riverine	AREA	0.136	ACRES	A5	40.2383	-75.2855

Local Waterway	Ohwm Chg In Pl	Ohwm Bed And Banks	Ohwm Bre:	Ohwm Chg	Ohwm Chg	Ohwm Chg	Ohwm Line Impressed Or
Towamencin Creek		YES					YES

