



**DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
WANAMAKER BUILDING, 100 PENN SQUARE EAST
PHILADELPHIA, PENNSYLVANIA 19107-3390**

September 14, 2020

Regulatory Branch
Applications Section II

SUBJECT: CENAP-OPR 2016-00968 (91)
Hidden Meadows LH
Latitude and Longitude: 40.588047 ° N, -75.571791° W

Upper Macungie Group
c/o Mr. Sal Lazio
104 Old Mill Road
Sellersville, Pennsylvania 18960

Dear Mr. Lazio:

This letter is in regard to your request for verification of a delineation of waters and wetlands performed on your behalf by NOVA Consultants, LTD. The project area is located approximately 800 feet south of the intersection of Werley Road and Rabenold Lane, Upper Macungie Township, Lehigh 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.

The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional 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 USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, 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 November 13, 2020.

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

Due to the Corps need to work remotely in response to the COVID 19 global pandemic we are only issuing you an electronic copy of your AJD. Please print and/or save this document for your records. If you require a physical copy of this document please inform your Project Manager and a physical copy of this document will be mailed to you when conditions allow.

If you have any questions regarding this matter, please contact Mr. Nathan Fronk at 267-284-6564 or by email at Nathan.r.fronk@usace.army.mil.

Sincerely,

Michael H. Hayduk
Chief, Applications Section II

SUBJECT PROPERTY: Approved jurisdictional determination is for the wetlands and waters located within the project area defined in "Master Existing Features Plan Prepared As Part of the Hidden Meadows Phase II, Prepared for Upper Macungie Group, Site Situate In Upper Macungie Township, Lehigh Township, Pennsylvania".

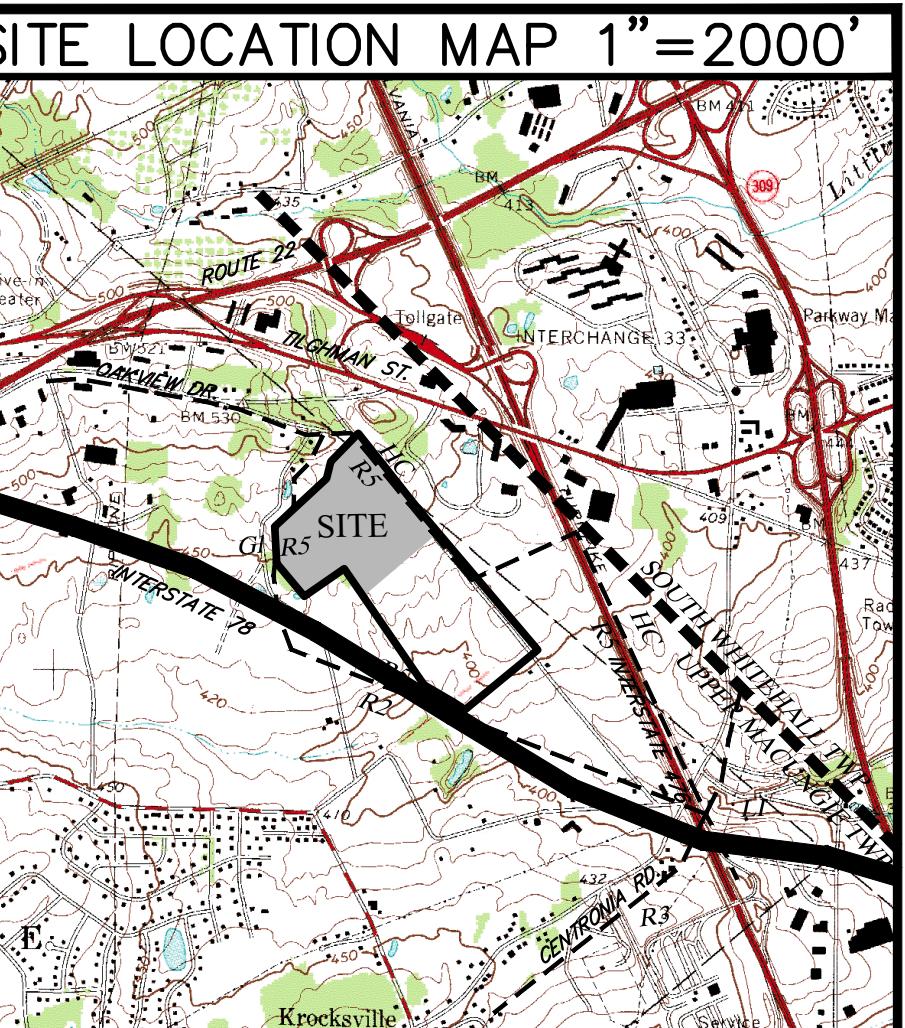
SURVEY DESCRIPTION: "Master Existing Features Plan Prepared As Part of the Hidden Meadows Phase II, Prepared for Upper Macungie Group, Site Situate In Upper Macungie Township, Lehigh Township, Pennsylvania", Sheet 5 of 34, Scale: 1" = 80', Drawn by JDH of The Crossroads Group, LLC. on 9/24/2008, Last Revised 8/19/2020. Also identified as "US Army Corps of Engineers, CENAP-OPR 2016-00968, Approved Plan Sheet 1 of 1".

COMMENTS: Site inspection by representative of this office on September 2 and September 8, 2020.

Enclosures

Copies Furnished:

PADEP (NERO)
Lehigh County Conservation District
Upper Macungie Township
The Crossroads Group, LLC.



OWNER INFORMATION

547643043532-1
547633733691-1

UPPER MACUNGIE GROUP
104 OLD MILL ROAD
SELLERSVILLE, PA 18960

SURVEY NOTES

- UNDARY SURVEY SHOWN HEREIN WAS PERFORMED BY THE CROSSROADS GROUP, LLC., SEPTEMBER 2017 UTILIZING AVAILABLE DEEDS AND PLANS OF RECORDS.

EXISTING TOPOGRAPHY INFORMATION SHOWN HEREIN WAS TAKEN FROM AN ACTUAL GROUND SURVEY PERFORMED BY THE CROSSROADS GROUP, LLC. IN SEPTEMBER 2017 AND DECEMBER 2019.

IS PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND EXISTING UNRECORDED EASEMENTS MAY EXIST.

TUMS:
HORIZONTAL DATUM IS NORTH AMERICAN DATUM 1983 (NAD83) STATE PLANE COORDINATES (SOUTH ZONE) ESTABLISHED BY GPS STATIC SESSION AND SUBMITTED TO NGS OPUS SOLUTION.

VERTICAL DATUM IS NORTH AMERICAN VERTICAL DATUM 1988 (NAVD 88 (COMPUTED USING GEOID12B))

BENCHMARK= USGS BM ISAAC – LOCATED LOCATED ON THE NORTH SIDE OF OAKVIEW DRIVE AT THE INTERSECTION OF OAK LANE.
ELEVATION = 528.04

OWNER INFORMATION:
UPPER MACUNGIE GROUP
104 OLD MILL ROAD
SELLERSVILLE, PA 18960

PARCEL INFORMATION:
600 WERLEY RD
ALLEN TOWN PA 18104

TAX PARCEL NO. 20H07026002
DEED REFERENCE: 7108204
SITE AREA = 76.04 ACRES (BY SURVEY)

LAND DELINEATION WAS PERFORMED BY DELVAL SOIL AND ENVIRONMENTAL CONSULTANTS, INC. ON APRIL 10, 2001 AND RECERTIFIED BY THE ARMY CORPS OF ENGINEERS ON AUGUST 30, 2017.

LOCATION OF ALL UNDERGROUND UTILITIES ARE APPROXIMATE. ALL LOCATIONS AND SIZES ARE BASED ON UTILITY MARK-OUTS, ABOVE GROUND STRUCTURES THAT ARE VISIBLE & ACCESSIBLE IN THE FIELD, AND THE MAPS LISTED IN THE REFERENCES AVAILABLE AT THE TIME OF THE SURVEYS. ALL UNDERGROUND UTILITIES SHOULD BE VERIFIED AS TO THEIR LOCATION, SIZE AND TYPE BY THE PROPER UTILITY COMPANIES BEFORE ANY EXCAVATION BEGINS.

HERE IS NO FLOODPLAIN LOCATED WITHIN THE SITE LIMITS BASED ON FEMA NATIONAL FLOOD INSURANCE PROGRAM FLOOD INSURANCE RATE MAP 12077C0230E, EFFECTIVE 7/16/2004.

US Army Corps of Engineers
CENAP-OPR 2016-00968
Approved Plan Sheet 1 of 1

SOILS DATA

CLARKSBURG SILT LOAM, 0 TO 3 PERCENT SLOPES
CLARKSBURG SILT LOAM, 3 TO 8 PERCENT SLOPES
THORNDALE/PENLAW SILT LOAMS, 0 TO 3 PERCENT SLOPES
UDORTHENTS
URBAN LAND, 0 TO 8 PERCENT SLOPES
WASHINGTON SILT LOAM, 3 TO 8 PERCENT SLOPES
WASHINGTON SILT LOAM, 8 TO 15 PERCENT SLOPES

ACT 131 NOTIFICATION



Crossroads

HIDDEN MEADOWS PHASE 2
PREPARED AS PART OF THE
PREPARED FOR
UPPER MACUNGIE GROUP
SITE SITUATE IN
UPPER MACUNGIE TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): [9/14/2020](#)

ORM Number: [CENAP-OP-R 2016-00968](#)

Associated JDs: [PJD issued in 2017 for Hidden Meadows](#)

Review Area Location¹: State/Territory: [PA](#) City: [Upper Macungie Twp.](#) County/Parish/Borough: [Lehigh](#)

Center Coordinates of Review Area: Latitude [40.588047](#) Longitude [-75.571791](#)

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: [N/A or describe rationale](#).
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A.	N/A	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters):³

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A	N/A	N/A.	N/A
N/A	N/A	N/A.	N/A.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):

(a)(3) Name	(a)(3) Size	(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A.	N/A

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)). ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
Wetland A	0.3677	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland B	0.4415	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland C/D	0.8944	acre(s)	(b)(1) Non-adjacent wetland.	Wetland C/D receives hydrology from the pond and has an intermittent watercourse (Water 1) that flows out of it and south to Wetland F. However, neither Water 1 or Wetland F are Waters of the United States. Wetland C has no surface hydrological connection to a water of the United States since it only flows into excluded waters.
Water 1	0.8944	acre(s)	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent feature that flows into Wetland F, which is an isolated water with no surface hydrological connection to a water of the United States.
Wetland E	0.8424	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland F	0.5291	acre(s)	(b)(1) Non-adjacent wetland.	Wetland F receives from Water 1 and Water 2 flows our of Wetland F, however, neither surface water contributes flow directly or indirectly to an (a)(1) water in a typical year. Therefore, Wetland F is an excluded water.
Water 2	0.0284	acre(s)	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent watercourse that flows from Wetland F into Wetland H. Both wetlands are non-adjacent wetlands, which means Water 2 does not have a surface hydrological connection to a water of the United States.
Wetland G	0.017	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland H	0.5202	acre(s)	(b)(1) Non-adjacent wetland.	Wetland that receives flow from Water 2, however, the water does not flow out of

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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REGULATORY PROGRAM
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Excluded waters ((b)(1) – (b)(12)). ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			the site and has no surface connection to a water of the United States.	
Wetland I	0.3247	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland J	0.4426	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland K	0.0434	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland N	0.0402	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland M	0.0424	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland L	0.0424	acre(s)	(b)(1) Non-adjacent wetland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland O	0.0307	acre(s)	(b)(1) Non-adjacent wetland.	Connects to Water 1, which is a surface water that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.
Pond	0.28	acre(s)	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year.	Pond that has no surface water flow into the feature and flows into Wetland C, which is an excluded water.

III. SUPPORTING INFORMATION

A. **Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Previous information submitted for Preliminary Jurisdictional Determination, completed on August 10, 2017.](#)

This information is sufficient for purposes of this AJD.

Rationale: **N/A**

Data sheets prepared by the Corps: **Title(s) and/or date(s).**



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- Photographs: Other: Title(s) and/or date(s).
- Corps site visit(s) conducted on: September 2 and 8, 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): PJD issued on August 10, 2017
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Title(s) and/or date(s).
- USFWS NWI maps: Title(s) and/or date(s).
- USGS topographic maps: Title(s) and/or date(s).

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Aerial imagery from Google Earth

B. Typical year assessment(s): The Antecedent Precipitation Tool was used to determine hydrologic site conditions. The analysis resulted in a Condition Value of 14, which is considered Normal. Therefore, Normal Conditions existed at the time of the site visit.

C. Additional comments to support AJD: A preliminary Jurisdictional Determination had been completed for the site in 2017.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Upper Macungie Group	File Number: CENAP 2016-00968	Date: September 14, 2020
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:

Nathan Fronk
(267) 284-6564, or
Nathan.R.Fronk@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.

<u>Signature of appellant or agent.</u>	Date:	Telephone number:
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