



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

January 21, 2021

Regulatory Branch
Applications Section II

SUBJECT: CENAP-OPR 2019-01100 (91)
Maxatawny Assemblage Project Hilltop Road BE
Latitude and Longitude: 40.53802° N, -75.746184° W

Duke Realty Limited Partnership
c/o Mr. Nicholas Rakowski
61 Washington Street, Suite 1020
Conshohocken, PA 19428

Dear Mr. Rakowski:

This letter is regarding your request for verification of a delineation of waters and wetlands performed on your behalf by Liberty Environmental, Inc. The project area is located approximately 1,500 feet northwest of the intersection of State Route 222 and Hottenstein Road, Maxatawny Township, Berks 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 this letter. Should you decide to submit an RFA form, it must be received at the above address by March 21, 2021.

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 study area defined in “Valley Logistics Park, Maxatawny Township, Berks County, Pennsylvania”.

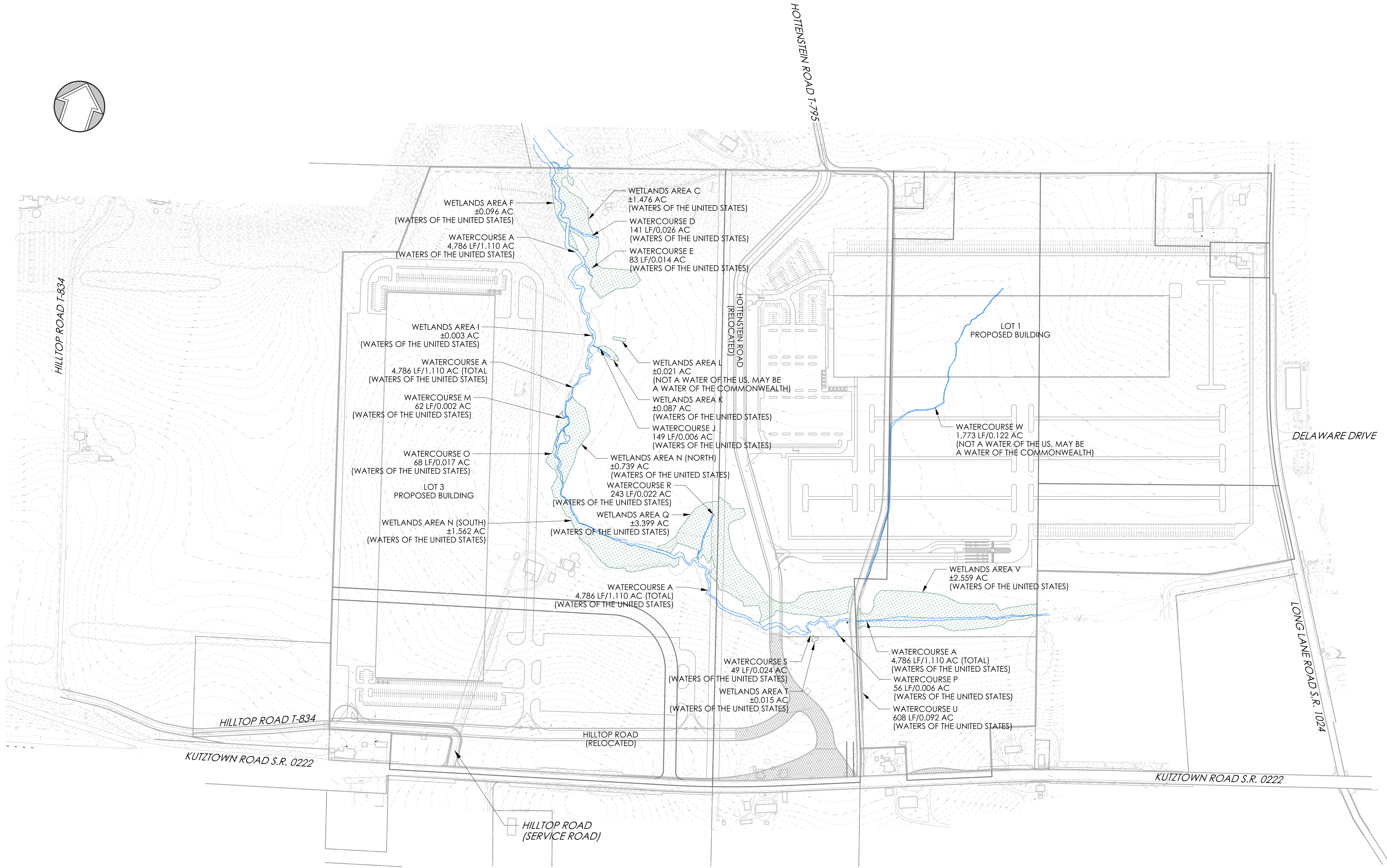
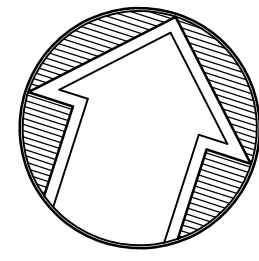
SURVEY DESCRIPTION: “Valley Logistics Park, Maxatawny Township, Berks County, Pennsylvania”, Sheet 1 of 1, Scale: 1”=200’, Drawn by M. of Nave Newell, Last Revised on 1/14/2021. Also identified as “US Army Corps of Engineers, CENAP-OP-R-2019-01 100, Approved Plan Sheet 1 of 1.”

COMMENTS: Site inspection by representative of this office on November 5, 2019.

Enclosures

Copies Furnished:

PADEP (SCRO)
Berks County Conservation District
Maxatawny Township
Liberty Environmental, Inc.

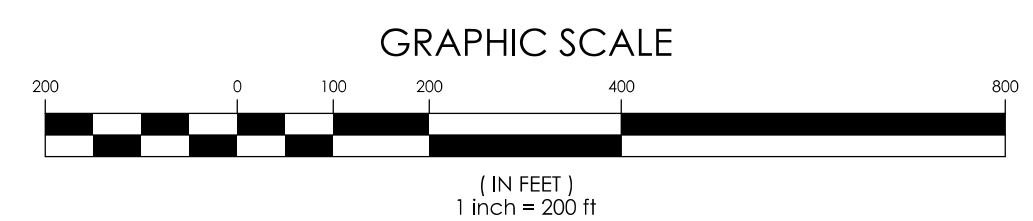


WETLANDS DESIGNATION	AREA	
	SF	AC
C	64,289	1.476
F	4,190	0.096
I	130	0.003
K	3,768	0.087
L	929	0.021
N (NORTH)	32,210	0.739
N (SOUTH)	68,032	1.562
Q	148,070	3.399
T	668	0.015
V	111,474	2.559
TOTAL	433,760	9.959

US Army Corps of Engineers
CENAP-OPR 2019-01100
Approved Plan Sheet 1 of 1

LEGEND

- PROPERTY BOUNDARY LINE
- LEGAL ROW
- PROPERTY EASEMENT LINES
- EXISTING BUILDING
- EXISTING ROAD
- EXISTING CONTOUR MAJOR
- EXISTING CONTOUR MINOR
- EXISTING TREE LINE
- EXISTING WETLANDS
- EXISTING WATERS



DATE	NO.	DESCRIPTION	CREATED BY
12/27/19	1	UPDATED PER REVISED SURVEY	
2/1/20	2	UPDATED PER DIME COMMENTS SHOW SITE LAYOUT	
7/14/21	3	UPDATED SITE LAYOUT AND WETLAND INFO	

SEAL
JAMES P. BANNON
Professional Engineer
No. PE 083132
Professional Seal No. PE 083132

VALLEY LOGISTICS PARK
MAXATAWNY TOWNSHIP, BERKS COUNTY, PENNSYLVANIA

project no. 2019-041	drawn by:
date:	checked by:
scale:	approved by:
sheet no.	JPB

1 of 1



**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): 1/21/2021

ORM Number: CENAP-OPR 2019-01100

Associated JDs: PJD Completed in March 16, 2020

Review Area Location¹: State/Territory: PA City: Maxatawny Township County/Parish/Borough: Berks

Center Coordinates of Review Area: Latitude 40.53802 Longitude -75.746184

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	
Watercourse A	1.328 acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The perennial tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into Mill Creek which flows into Saucony Creek, which flows into Maiden Creek, which flows into the Delaware River. The watercourse has numerous abutting wetlands that provide continuous hydrology throughout the	

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.



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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				year. Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed.
Watercourse D	141	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The perennial tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into Mill Creek which flows into Saucony Creek, which flows into Maiden Creek, which flows into the Delaware River.</p> <p>The watercourse has numerous abutting wetlands that provide continuous hydrology throughout the year. Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed.</p>
Watercourse E	83	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The intermittent tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>The watercourse is surrounded by a PFO wetland which provides hydrology for most of the year. Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed.</p>
Watercourse J	149	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The intermittent tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>The watercourse receives most of its hydrology from Wetland K. The small wetland does not provide enough hydrology during the drier months to allow for perennial flow. Bed and bank,</p>



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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				sediment sorting and the destruction of terrestrial vegetation were all observed.
Watercourse M	62	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The intermittent tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>The watercourse is surrounded by an emergent wetland, which provides for intermittent flow throughout the year. Bed and bank and sediment sorting were observed.</p>
Watercourse O	68	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The perennial tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>The watercourse is surrounded by an emergent wetland, which provides for perennial flow throughout the year. Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed. The watercourse also appeared to be partially springfed, which would add to the available hydrology contributing to the perennial flow.</p>
Watercourse P	56	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The perennial tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p>



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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
				The watercourse is surrounded by an emergent wetland, which provides for perennial flow throughout the year. Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed.
Watercourse R	243	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The intermittent tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>The watercourse is surrounded by an emergent wetland, which provides hydrology for most of the year. Stormwater runoff from the surrounding uplands also provide hydrology to the watercourse.</p>
Watercourse S	49	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	<p>The perennial tributary indirectly contributes surface water flow to the Schuylkill River in a typical year. The tributary flows into an unnamed tributary to Mill Creek, which flows into Mill Creek. Mill Creek flows into Saucony Creek, which flows into Maiden Creek, which flows directly into the Schuylkill River.</p> <p>Bed and bank, sediment sorting and the destruction of terrestrial vegetation were all observed.</p>

C

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.	N/A.



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

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetlands Area C	1.476	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.
Wetlands Area F	0.096	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.
Wetlands Area I	0.003	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.
Wetlands Area K	0.087	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This wetland originates in an agricultural field and has Watercourse J, an (a)(2) water, flow west out of the wetland and directly into Watercourse A.
Wetlands Area N	2.301	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.
Wetlands Area Q	3.399	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.
Wetlands Area T	0.015	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetland originates to the south of Watercourse A and has a direct surface connection to Watercourse A via Watercourse S, which is an (a)(2) water.
Wetlands Area V	2.559	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	The wetlands abut Watercourse A, which is an (a)(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetlands Area L	0.021	acre(s)	(b)(1) Non-adjacent wetland.	The wetland does not abut, meaning that they touch at least at one point or side of, an (a)(1) – (a)(3) water; is not inundated by flooding from an (a)(1) – (a)(3) water in a typical year; is not physically separated from an (a)(1) – (a)(3) water only by a natural berm, bank, dune, or similar natural feature; and is not physically separated from an (a)(1) – (a)(3) water only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetlands and the water in a typical

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.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
			year, such as through a culvert, flood or tide gate, pump, or similar artificial feature. The wetland is a depressional feature that is located approximately 270 feet from the nearest jurisdictional water. The wetland is regularly farmed as are the uplands separating the wetland from Watercourse A.	
Watercourse U	408	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Watercourse U has a defined bed and bank and flows intermittently but loses hydrology as it flows south towards Watercourse A. The defined bed and bank disappears approximately 150 feet from Watercourse A. Since Watercourse U does not reach an (a)(1) – (a)(4) water it does not contribute directly or indirectly to an (a)(1) – (a)(4) water in a typical year.

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: “Regulated Waters Delineation and Phase I Bog Turtle Habitat Assessment, Maxatawny Assemblage Project, Maxatawny Township, Berks County, Pennsylvania, Liberty Project No. 190274, PNDI Search ID: # 684661”, Dated: August 5, 2019.

This information is sufficient for purposes of this AJD.

Rationale: The report included data sheets, a site description, and supporting mapping that is sufficient for the AJD.

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

☐ Photographs: Other:

☒ Corps site visit(s) conducted on: November 5, 2019

☐ Previous Jurisdictional Determinations (AJDs or PJDs): ORM Number(s) and date(s).

☒ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.

☒ USDA NRCS Soil Survey: Web Soil Survey included with delineation report

☐ USFWS NWI maps:

☐ 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.



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

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

- B. Typical year assessment(s):** The Antecedent Precipitation Tool was used to determine hydrologic site conditions. The analysis resulted in a Condition Value of 13, which is considered Normal. Therefore, Normal Conditions existed at the time of the site visit.
- C. Additional comments to support AJD:** The jurisdictional waters in this AJD are tributaries to connected to Mill Creek, which is an (a)(2) water. Mill Creek flows into Saucony Creek, which flows into Maiden Creek. Maiden Creek flows into the Schuylkill River, which is an (a)(1) water.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Duke Realty Limited Partnership		File Number: CENAP 2019-01100	Date: January 21, 2021
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: