



**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): [Select](#).
 ORM Number: [CENAP-OPR-2021-130-85](#)
 Associated JDs: [N/A](#)
 Review Area Location¹: State/Territory: [Delaware](#) City: [Lewes](#) County/Parish/Borough: [Sussex](#)
 Center Coordinates of Review Area: Latitude [38.700822 N](#) Longitude [-75.143207 W](#)

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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1	2.22	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a hydrologically isolated and remote wetland that does not meet the NWPR definition of an adjacent wetland.
Wetland 3	2.43	acre(s)	(b)(8) Non-adjacent wetland.	Wetland 3 is a remote wetland that does not meet the NWPR definition of an adjacent wetland. Additional information below.
Wetland 4	1.00	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 4 is a hydrologically isolated and remote wetland that does not meet the NWPR definition of an adjacent wetland.
Wetland 5	0.12	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 5 is a hydrologically isolated and remote wetland that does not meet the NWPR definition of an adjacent wetland
Ditch A	658	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Waters A is an agricultural drainage ditch that does not meet the NWPR definition of a jurisdictional tributary.

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: [Wetland Delineation Plan for Scenic Manor, prepared by Geo-Technology Associates, Inc. dated February 10, 2021; and Approved Jurisdictional Determination Request Exhibit, prepared by Geo-Technology Associates, Inc dated February 10, 2021](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

Photographs: [Aerial and Other: 2017 Aerial Imagery, provided by National Agricultural Imagery Program; Site Photos taken in August 2020](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

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: [USDA Natural Resource Conservation Service Web Soil Survey obtained at <http://websoilsurvey.nrcs.usda.gov>; dated July 21, 2020](#)

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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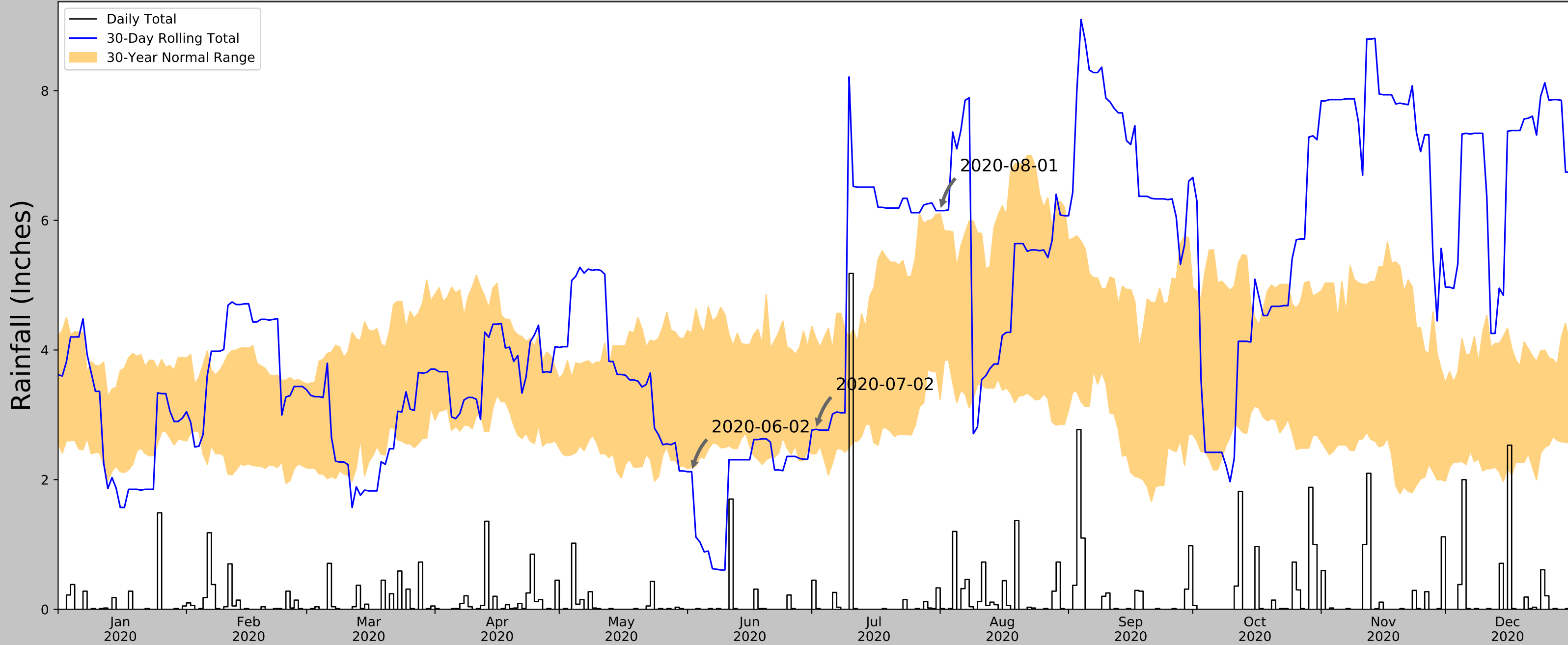
- USFWS NWI maps: USFWS National Wetland Inventory wetland map obtained at <<http://www.fws.gov/wetlands>>; dated July 21, 2020
- USGS topographic maps: 1" = 2000' ; Fairmount, DE and Frankford, DE; dated July 21, 2020

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.
FEMA/FIRM maps	FEMA Firmette Map, No. 10005C0334K, obtained at < http://www.fema.gov >

- B. Typical year assessment(s):** Wetlands on the subject site were delineated in August 2020 and January 2021. A typical year assessment was conducted using the Antecedent Precipitation Tool (APT) and results indicate that conditions were within the normal range in August 2020, and significantly wetter than normal in January 2021. Results are attached.
- C. Additional comments to support AJD:** Ditch A is an agricultural drainage ditch that was excavated within upland agricultural fields between two parcels. Ditch A is approximately 1,075 northwest of the mean high water line of tidal waters associated with Arnell Creek. Apparent areas of inundation upslope of this ditch are not evident on aerial imagery prior to 1961. Ditch A has a clearly defined excavated channel through uplands with adjacent spoil piles. Furthermore, Ditch A does not contribute surface water flow in a typical year. This ditch is not constructed in or a relocated tributary, nor constructed in an adjacent wetland and, therefore, considered a (b)(5) excluded feature. Wetlands 1, 3, 4, and 5 do not abut an (a)(1) through (a)(3) water and are not inundated by flooding from an (a)(1) through (a)(3) water in a typical year. Furthermore, these wetlands are not separated from an (a)(1) through (a)(3) water by a natural and/or man-made berm. Wetlands 1, 4, and 5 are hydrologically isolated and remote features that do not contribute surface flow to an (a)(1) through (a)(3) water in a typical year. Wetland 3 appears to be an impoundment that was constructed using a wooden weir upslope of Ditch A in an agricultural field for waterfowl hunting between 1992 and 1997. Wetland 3 is created as a result of impounding Ditch A. As such, Wetland 3 meets the (b) (8) exclusion.

Antecedent Precipitation vs Normal Range based on NOAA's Daily Global Historical Climatology Network



Coordinates	38.70084, -75.14260
Observation Date	2020-08-01
Elevation (ft)	8.87
Drought Index (PDSI)	Mild wetness
WebWIMP H ₂ O Balance	Dry Season

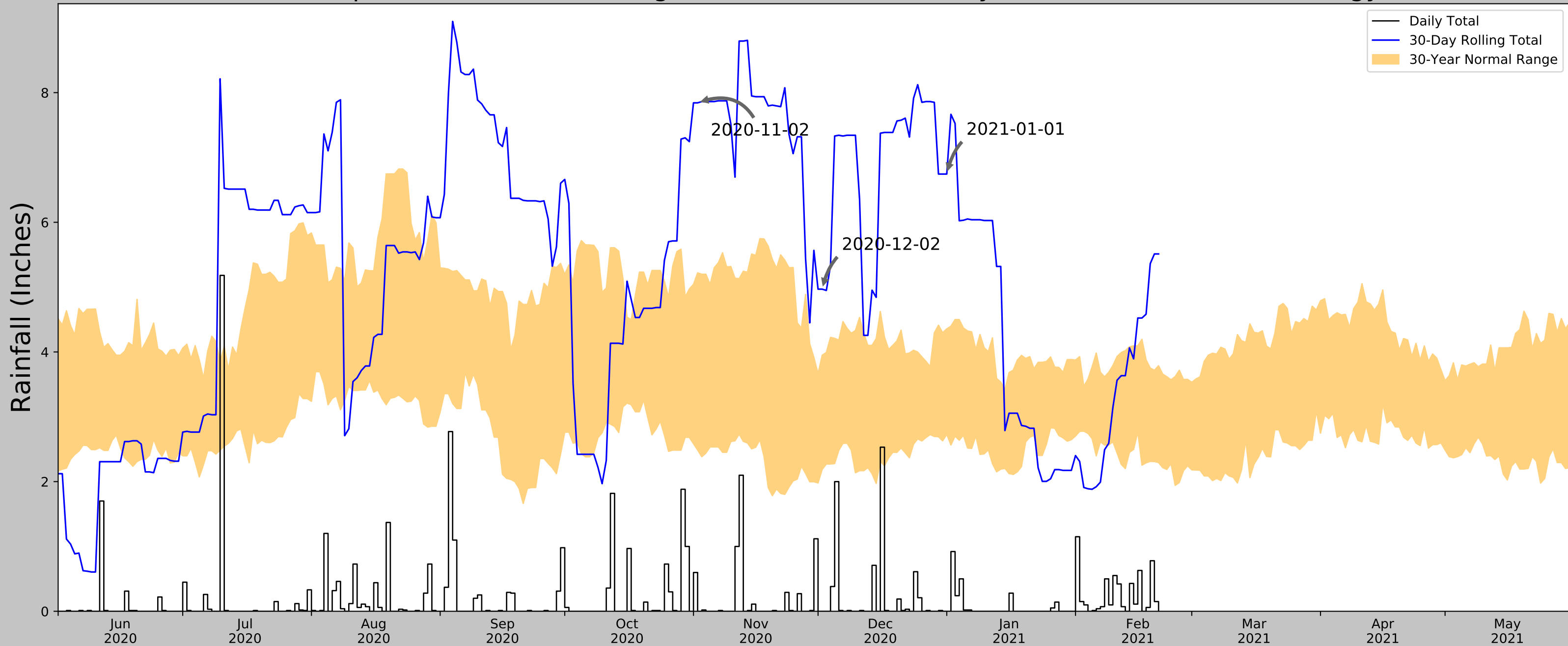
30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-08-01	3.237795	6.101181	6.149606	Wet	3	3	9
2020-07-02	2.398032	4.177165	2.775591	Normal	2	2	4
2020-06-02	2.190945	4.259055	2.122047	Dry	1	1	1

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
LEWES	38.7842, -75.1581	9.843	5.82	0.973	2.625	7816	90
LEWES 7.8 S	38.668, -75.1446	2.953	2.272	5.917	1.036	52	0
LEWES 4.6 SSW	38.7224, -75.1926	1.969	3.08	6.901	1.407	145	0
DEWEY BEACH 0.2 S	38.692, -75.0766	1.969	3.611	6.901	1.65	1241	0
LEWES 2.4 SSE	38.7516, -75.1263	20.997	3.616	12.127	1.671	50	0
LEWES 1.7 SSW	38.7571, -75.1591	20.013	3.988	11.143	1.839	79	0
LEWES 1.5 SSW	38.7588, -75.1579	9.843	4.089	0.973	1.844	130	0
LEWES 3.9 SW	38.7445, -75.2048	25.919	4.51	17.049	2.106	52	0
LEWES 0.8 SE	38.7731, -75.1385	14.108	4.998	5.238	2.275	527	0
LONG NECK 1.5 WNW	38.6254, -75.1777	11.155	5.546	2.285	2.508	156	0
MILTON 3.8 SSE	38.7271, -75.287	38.058	7.994	29.188	3.831	308	0
DAGSBORO 7.1 ENE	38.5768, -75.1219	8.858	8.643	0.012	3.889	5	0
MILTON	38.8203, -75.203	3.937	8.872	4.933	4.036	5	0
MILLVILLE 0.5 NE	38.5492, -75.1056	7.874	10.666	0.996	4.81	59	0
GEORGETOWN SUSSEX CO AP	38.6892, -75.3592	50.853	11.708	41.983	5.76	719	0

Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

Written by Jason Deters
U.S. Army Corps of Engineers

Antecedent Precipitation vs Normal Range based on NOAA's Daily Global Historical Climatology Network



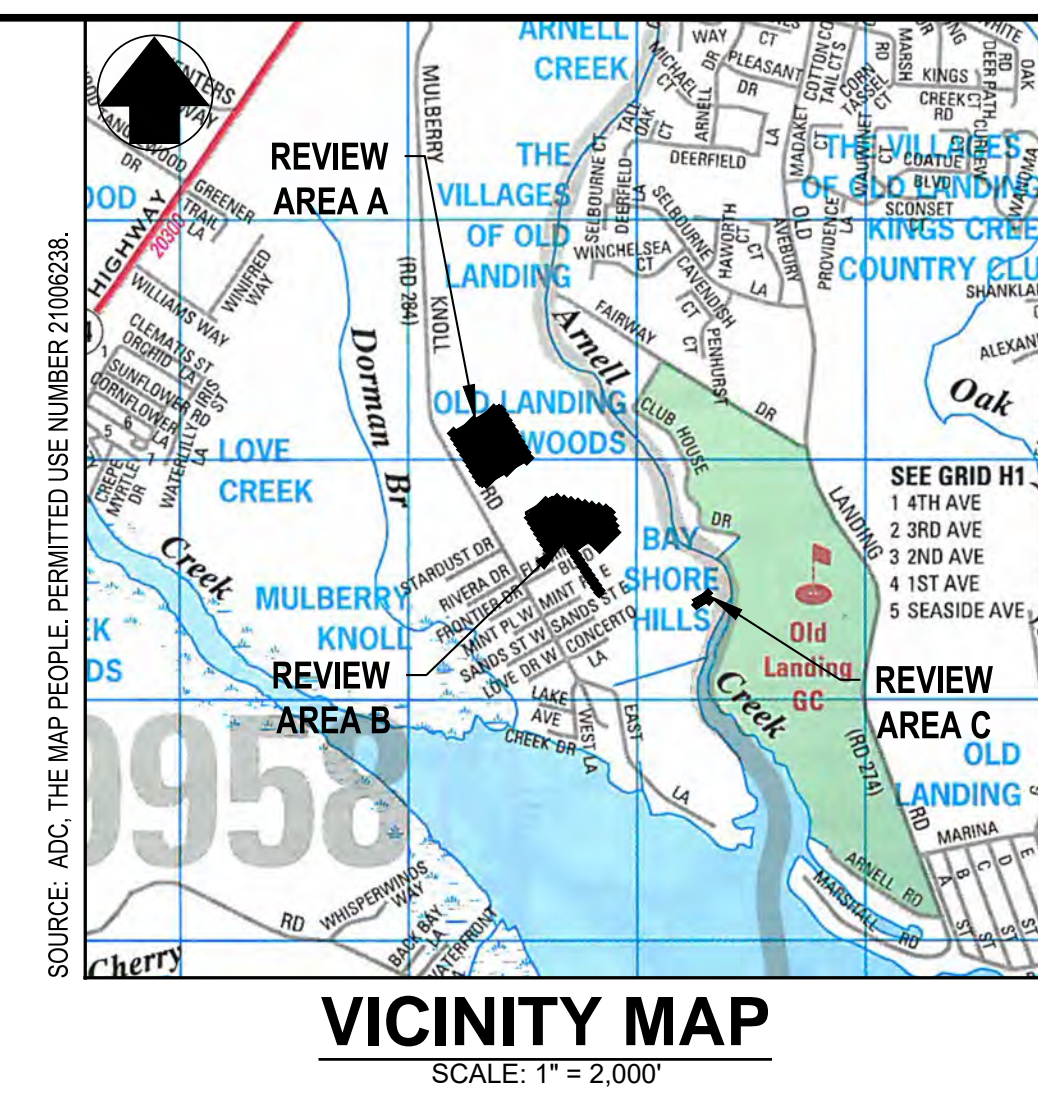
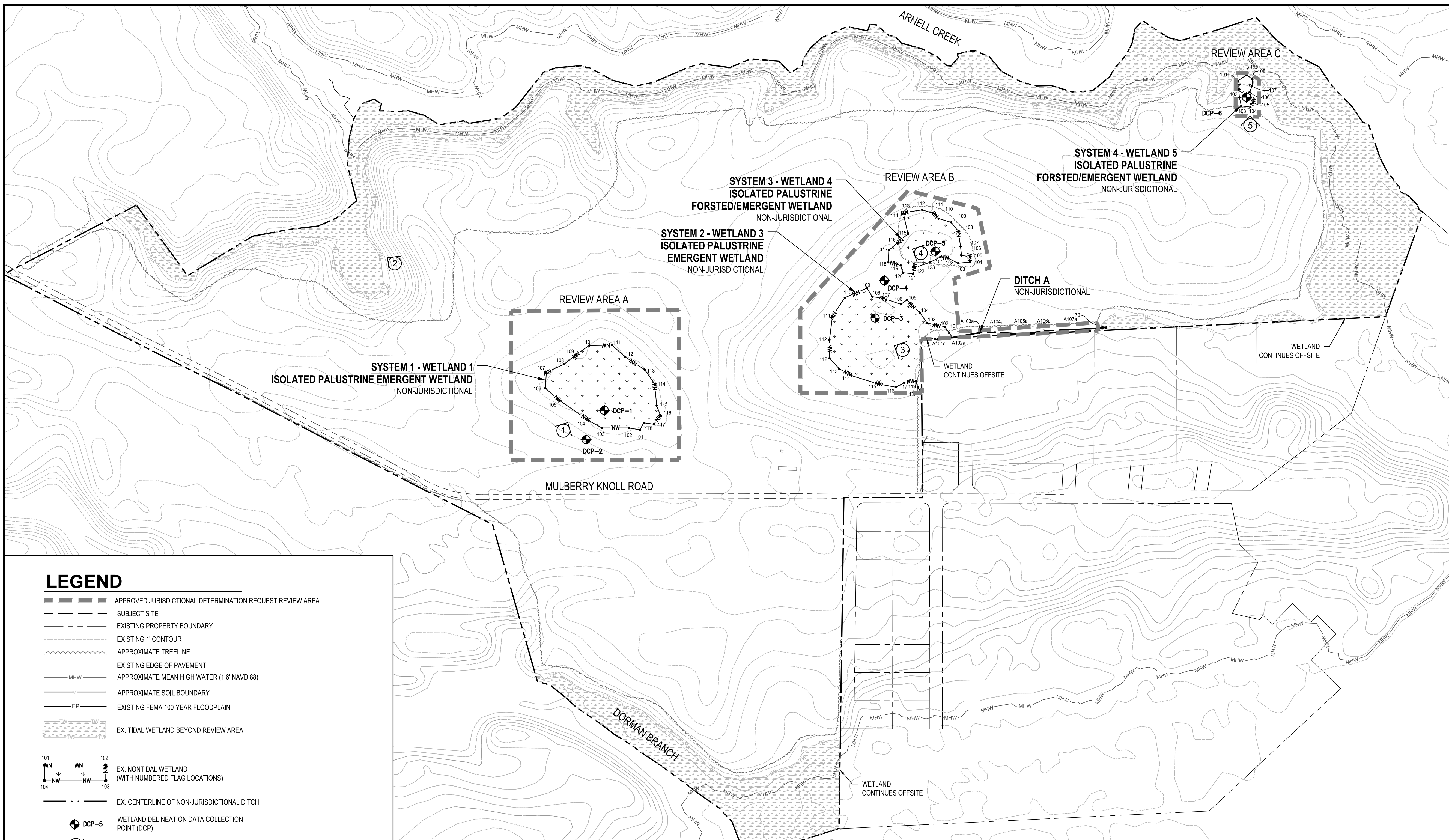
Coordinates	38.70084, -75.14260
Observation Date	2021-01-01
Elevation (ft)	8.87
Drought Index (PDSI)	Severe wetness
WebWIMP H ₂ O Balance	Wet Season

30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2021-01-01	2.729134	4.356299	6.744095	Wet	3	3	9
2020-12-02	2.188976	3.950394	4.968504	Wet	3	2	6
2020-11-02	2.488189	5.220079	7.84252	Wet	3	1	3

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
LEWES	38.7842, -75.1581	9.843	5.82	0.973	2.625	7775	89
LEWES 7.8 S	38.668, -75.1446	2.953	2.272	5.917	1.036	60	0
LEWES 4.6 SSW	38.7224, -75.1926	1.969	3.08	6.901	1.407	155	0
DEWEY BEACH 0.2 S	38.692, -75.0766	1.969	3.611	6.901	1.65	1266	1
LEWES 2.4 SSE	38.7516, -75.1263	20.997	3.616	12.127	1.671	50	0
LEWES 1.7 SSW	38.7571, -75.1591	20.013	3.988	11.143	1.839	79	0
LEWES 1.5 SSW	38.7588, -75.1579	9.843	4.089	0.973	1.844	131	0
LEWES 3.9 SW	38.7445, -75.2048	25.919	4.51	17.049	2.106	52	0
LEWES 0.8 SE	38.7731, -75.1385	14.108	4.998	5.238	2.275	527	0
LONG NECK 1.5 WNW	38.6254, -75.1777	11.155	5.546	2.285	2.508	156	0
MILTON 3.8 SSE	38.7271, -75.287	38.058	7.994	29.188	3.831	308	0
DAGSBORO 7.1 ENE	38.5768, -75.1219	8.858	8.643	0.012	3.889	5	0
MILTON	38.8203, -75.203	3.937	8.872	4.933	4.036	5	0
MILLVILLE 0.5 NE	38.5492, -75.1056	7.874	10.666	0.996	4.81	59	0
GEORGETOWN SUSSEX CO AP	38.6892, -75.3592	50.853	11.708	41.983	5.76	719	0

Figure and tables made by the
Antecedent Precipitation Tool
Version 1.0

Written by Jason Deters
U.S. Army Corps of Engineers



GENERAL INFORMATION

- LOCATION: EAST AND WEST OF MULBERRY KNOLL ROAD IN THE LEWES AREA OF SUSSEX COUNTY, DELAWARE.
- PLAN PREPARED FOR: SUSSEX LAND DEVELOPMENT, LLC
260 HOPWELL ROAD
CHURCHVILLE, MARYLAND 21028
ATTN: MR. JOHN RICHARDSON
- PLAN PREPARED BY: GEO-TECHNOLOGY ASSOCIATES, INC. (GTA)
3445-A BOX HILL CORPORATE CENTER DRIVE
ABINGDON, MARYLAND 21009
ATTN: MR. MAXWELL D. POTEMBER
- AREA OF REVIEW: APPROXIMATELY 170 ACRES
- THIS PLAN WAS PRODUCED ON A BASE MAP PROVIDED BY MORRIS & RITCHIE ASSOCIATES, INC.
- THE SUBJECT SITE IS IDENTIFIED AS SUSSEX COUNTY TAX PARCEL 334-18.00-43.00.
- THE FLOODPLAIN SHOWN HEREON IS FROM FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FLOOD INSURANCE RATE MAP (FIRM) NUMBER 10005C0334K, EFFECTIVE MARCH 16, 2015.
- THE LIMITS OF STATE-REGULATED SUBAQUEOUS LANDS SHOWN HEREON WERE ADAPTED FROM THE STATE OF DELAWARE WETLAND MAP 69.
- THE MEAN HIGH WATER LINE DEPICTED ON THIS PLAN WAS CALCULATED USING THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA) TIDE STATION #8557380 (LEWES, DE) BASED ON AN ELEVATION OF 1.6' (NAVD88) FOR THE 1983-2001 EPOCH.
- SOILS SHOWN ON THIS PLAN WERE ADAPTED FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE'S WEB SOIL SURVEY, ACCESSED ON NOVEMBER 4, 2020. AVAILABLE ONLINE AT <http://www.md.nrcs.usda.gov/technical/soils.html>.
- WETLAND DELINEATION OF THE SUBJECT SITE WAS PERFORMED BY GTA IN AUGUST 2020. WETLAND FLAG LOCATIONS WITHIN THE SUBJECT SITE WERE SURVEY LOCATED BY MORRIS & RITCHIE ASSOCIATES, INC. BETWEEN NOVEMBER 2020 AND JANUARY 2021.
- AS A RESULT OF THE REVIEW OF THE SITE, IT IS GTA'S PROFESSIONAL OPINION THAT THERE ARE JURISDICTIONAL "WATERS OF THE U.S.," INCLUDING WETLANDS, PRESENT WITHIN THE SUBJECT SITE.
- GTA'S CONCLUSIONS REGARDING THIS SITE HAVE BEEN BASED ON OBSERVATIONS OF EXISTING CONDITIONS, PROFESSIONAL EXPERIENCE, AND GENERALLY ACCEPTED PROFESSIONAL ENVIRONMENTAL PRACTICE UNDER SIMILAR CIRCUMSTANCES. SEASONAL VEGETATION CYCLES AND FLUCTUATIONS IN PRECIPITATION OR WEATHER CONDITIONS CAN RESULT IN DIFFERENCES IN THE PERCEPTION OF HYDROLOGIC CONDITIONS AND THE PRESENCE OF PREDOMINANTLY HYDROPHYTIC VEGETATION, WHICH CAN ALTER GTA'S EVALUATION OF WETLANDS/WATERWAYS.
- IT IS IMPORTANT TO NOTE THAT THIS EVALUATION IS GTA'S PROFESSIONAL OPINION ONLY. DECISIONS REGARDING THE OFFICIAL JURISDICTIONAL STATUS OF WETLANDS/WATERWAYS ARE MADE BY FEDERAL, STATE, AND/OR LOCAL REGULATORY AGENCIES.
- THIS PLAN WAS PREPARED BY GTA FOR THE SOLE AND EXCLUSIVE USE OF SUSSEX LAND DEVELOPMENT, LLC. ANY REPRODUCTION OF THIS PLAN BY ANY OTHER PERSON WITHOUT THE EXPRESSED WRITTEN PERMISSION OF GTA AND SUSSEX LAND DEVELOPMENT, LLC, IS UNAUTHORIZED, AND SUCH USE IS AT SOLE RISK OF THE USER.

LEGEND

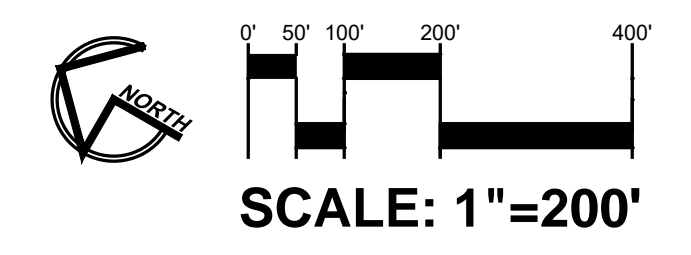
- APPROVED JURISDICTIONAL DETERMINATION REQUEST REVIEW AREA
- SUBJECT SITE
- EXISTING PROPERTY BOUNDARY
- EXISTING 1' CONTOUR
- APPROXIMATE TREELINE
- EXISTING EDGE OF PAVEMENT
- MHW APPROXIMATE MEAN HIGH WATER (1.6' NAVD 88)
- APPROXIMATE SOIL BOUNDARY
- EXISTING FEMA 100-YEAR FLOODPLAIN
- EX. TIDAL WETLAND BEYOND REVIEW AREA
- EX. NONTIDAL WETLAND (WITH NUMBERED FLAG LOCATIONS)
- EX. CENTERLINE OF NON-JURISDICTIONAL DITCH
- WETLAND DELINEATION DATA COLLECTION POINT (DCP)
- NUMBERED PHOTOGRAPH LOCATION

SOILS CHART

SYMBOL ¹	NAME/DESCRIPTION ¹	HYDRIC SOIL ²	HYDRIC COMPONENT ²	PERCENTAGE OF MAPPING UNIT ²	LANDSCAPE POSITION ²
Br	BROADKILL MUCKY PEAT, VERY FREQUENTLY FLOODED, TIDAL	YES	BROADKILL, VERY FREQUENTLY FLOODED, TIDAL	70	TIDAL MARSHES
			APPOQUINMINK, VERY FREQUENTLY FLOODED, TIDAL	15	TIDAL FLATS
			SUNKEN	10	SUBMERGED UPLAND TIDAL MARSHES
			TRANSQUAKING	5	TIDAL FLATS
DoA	DOWNER SANDY LOAM, 0 TO 2 PERCENT SLOPES, NORTHERN TIDEWATER AREA	NO	FALLSINGTON, UNDRAINED	38	DRAINAGEWAYS, SWALES, DEPRESSIONS, FLATS
			FALLSINGTON, DRAINED	27	SWALES, DEPRESSIONS, FLATS
DooB	DOWNER SANDY LOAM, 2 TO 5 PERCENT SLOPES, NORTHERN TIDEWATER AREA	NO	OTHELLO	8	FLATS, DRAINAGEWAYS, SWALES, DEPRESSIONS
FgA	FALLSINGTON LOAMS, 0 TO 2 PERCENT SLOPES, NORTHERN TIDEWATER AREA	YES	FALLSINGTON, UNDRAINED	38	DRAINAGEWAYS, SWALES, DEPRESSIONS, FLATS
			FALLSINGTON, DRAINED	27	SWALES, DEPRESSIONS, FLATS
GA	GREENWICH LOAM, 0 TO 2 PERCENT SLOPES	NO			
HA	HAMMONTON SANDY LOAM, 0 TO 2 PERCENT SLOPES	YES	HURLLOCK, DRAINED	5	FLATS, DEPRESSIONS, SWALES
			HURLLOCK, DRAINED	42	FLATS, DEPRESSIONS, SWALES
HvA	HURLLOCK SANDY LOAM, 0 TO 2 PERCENT SLOPES	YES	HURLLOCK, UNDRAINED	38	FLATS, SWALES, DEPRESSIONS, DRAINAGEWAYS
			MULLICA, DRAINED	5	FLATS, SWALES, DEPRESSIONS, DRAINAGEWAYS
IA	INGLESIDE LOAMY SAND, 0 TO 2 PERCENT SLOPES	NO			
Ma	MANAHAWKIN MUCK, FREQUENTLY FLOODED	YES	MANAHAWKIN	85	SWAMPS, FLOODPLAINS
			PUCKUM	10	DEPRESSIONS, FLOOD PLAINS, SWAMPS
TP	TRANSQUAKING AND MISPELLION SOILS, VERY FREQUENTLY FLOODED, TIDAL	YES	INDJANTOWN	5	FLOODPLAINS
			TRANSQUAKING	40	TIDAL MARSHES
			MISPELLION	40	TIDAL MARSHES
			SUNKEN	10	FLATS, SUBMERGED UPLAND TIDAL MARSHES
			OTHELLO, UNDRAINED	5	DRAINAGEWAYS, FLATS, DEPRESSIONS, SWALES
			HONGA	5	SUBMERGED UPLAND TIDAL MARSHES
Whe1	HERRING CREEK MUCKY SILT LOAM, 0 TO 1 METER WATER DEPTH	YES	HERRING CREEK, 0 TO 1 METER WATER DEPTH	85	ESTUARINE TIDAL STREAMS
			METEDECOK, 0 TO 1 METER WATER DEPTH	10	ESTUARINE TIDAL STREAMS
			TRUITT, 0 TO 1 METER WATER DEPTH	5	MAN-LAND COVES

AREA OF WETLANDS WITHIN THE REVIEW AREA:

WETLAND	APPROXIMATE AREA
WETLAND 1 (ISOLATED)	96,541 SF (2.22 AC)
WETLAND 3 (ISOLATED)	105,817 SF (2.43 AC)
WETLAND 4 (ISOLATED)	43,697 SF (1.00 AC)
WETLAND 5 (ISOLATED)	5,265 SF (0.12 AC)
TOTAL WETLAND AREA	251,320 SF (5.77 AC)



GTA
GEO-TECHNOLOGY ASSOCIATES, INC.
GEOTECHNICAL AND ENVIRONMENTAL CONSULTANTS
3445-A BOX HILL CORPORATE CENTER DRIVE
ABINGDON, MARYLAND 21009
410-515-9446
FAX: 410-515-4895
WWW.GTAENG.COM
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APPROVED JURISDICTIONAL DETERMINATION REQUEST EXHIBIT

SCENIC MANOR

SUSSEX COUNTY, DELAWARE

DATE	REVISIONS	JOB NO.	SCALE:
		31191080	1" = 200'
		DATE: FEBRUARY 10, 2021	
		DRAWN BY: RJM	
		DESIGN BY: MAJ/TAS	
		REVIEW BY:	
		SHEET: 1 OF 1	

1. UNITED STATES DEPARTMENT OF AGRICULTURE, NATURAL RESOURCES CONSERVATION SERVICE'S WEB SOIL SURVEY, ON JULY 18, 2019, AT <http://websoilsurvey.sc.egov.usda.gov/APPLYWEBSOILSURVEY.ASPX>
2. HYDRIC SOILS INFORMATION AVAILABLE FROM THE STATE SOIL DATA ACCESS HYDRIC SOILS LIST, AT <http://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/NRCSEPRD1316619.HTML#REPORTREF>. ACCESSED JULY 18, 2019.