



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT  
100 SOUTH INDEPENDENCE MALL WEST  
PHILADELPHIA PA 19106-3400

May 23, 2023

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination NAP-2023-00313-103  
Purple Cat Solar Storage Site KE  
Center coordinates (38.915097°, -75.584144°)

Jay Linke  
Purple Cat Storage, LLC  
130 Roberts Street  
Asheville, North Carolina 28801

Dear Mr. Linke:

This Approved Jurisdictional Determination (AJD) is provided in response to your request on April 13, 2023 for a determination of Federal jurisdiction by this office. The site associated with your request is located on Farmington Road, Tax Parcel 6-00-17900-02-4100-00001 in Harrington, Kent County, Delaware.

The findings of this AJD are documented in the **enclosed** AJD Form. The findings are also depicted on the **enclosed** plan(s) identified as "FIGURE 2. USGS 7.5-MINUTE TOPOGRAPHIC MAP OF HARRINGTON QUADRANGLE and FIGURE 5. SITE MAP OF WETLANDS AND OTHER WATER RESOURCES"; prepared by EnviroScience; dated December 2022; unrevised; 2 sheets.

A Department of the Army permit is required for work or structures in "navigable waters of the United States" pursuant to Section 10 the Rivers and Harbors Act (RHA) of 1899 and the discharge of dredged or fill material into "waters of the United States" pursuant to Section 404 of the Clean Water Act (CWA). Any proposal to perform these activities within areas of Federal jurisdiction requires prior approval by this office.

Food Security Act statement: The delineation included herein has been conducted to identify the location and extent of the aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation 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 an NRCS Certified Wetland Determination with the local USDA service center, prior to starting work.

This AJD is valid for a period of five (5) years. This AJD 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 this AJD 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.

You may request an administrative appeal of this AJD if you **do not** accept this determination. **Enclosed** you will find a combined Notification of Appeal Process (NAP) and Request for Appeal (RFA) form. Should you wish to appeal this determination, you must submit a completed RFA form to the North Atlantic Division Office within 60 days of the date on the form. Additionally, for the appeal to be accepted, the Corps must determine that it is complete and that it meets the criteria for appeal under 33 CFR Part 331.5. The form should be submitted to Andrew Dangler, Regulatory Program Manager, at [Andrew.C.Dangler@usace.army.mil](mailto:Andrew.C.Dangler@usace.army.mil). If you do not have the means to submit this form electronically, you may send it by mail to the Division office at:

US Army Corps of Engineers North Atlantic Division  
Attn: Andrew Dangler (CENAD-PD-OR)  
Fort Hamilton Military Community  
301 John Warren Avenue, First Floor  
Brooklyn, NY 11252-6700

If you have any questions regarding this matter, please contact James A. Colligan at 302-518-9480 or [James.A.Colligan@usace.army.mil](mailto:James.A.Colligan@usace.army.mil).

Sincerely,

Todd A. Hoernemann  
Chief, Application Section I

Enclosures

cc:  
Max Koran, EnviroScience  
Wetlands and Waterways Section, DDNREC  
Kent County Conservation District  
Wetlands Branch, USEPA Region III

**DRY LAND APPROVED JURISDICTIONAL DETERMINATION FORM<sup>1</sup>**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): May 23, 2023**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NAP-2023-00313-103 Purple Cat Solar Storage KE**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: Delaware County/parish/borough: Kent County City: Harrington

Center coordinates of site (lat/long in degree decimal format): Lat. 38.915097 °, Long. -75.584144 °

Universal Transverse Mercator: 449359.752088, 4307518.251351

Name of nearest waterbody: Marshyhope Creek

Name of watershed or Hydrologic Unit Code (HUC): Murderkill River Watershed

- Check if map/diagram of review area is available upon request.
- Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination. Date: May 19, 2023
- Field Determination. Date(s):

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are **no** “*navigable waters of the U.S.*” within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There are **no** “*waters of the U.S.*” within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

**SECTION III: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: 2023-00313 Supporting Documents
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 2023-00313 Supporting Documents
- USDA Natural Resources Conservation Service Soil Survey. Citation: 2023-00313 Supporting Documents
- National wetlands inventory map(s). Cite name: 2023-00313 Supporting Documents
- State/Local wetland inventory map(s):
- FEMA/FIRM maps: 2023-00313 Supporting Documents
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): 2023-00313 Supporting Documents
  - or  Other (Name & Date): 2023-00313 Supporting Documents
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. REQUIRED ADDITIONAL COMMENTS TO SUPPORT JD. EXPLAIN RATIONALE FOR DETERMINATION THAT THE REVIEW AREA ONLY INCLUDES DRY LAND:** There are no aquatic resources within the project area. All data points determined no wetlands were found and support a dry land determination.

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<sup>1</sup> This form is for use only in recording approved JDs involving dry land. It extracts the relevant elements of the longer approved JD form in use since 2007 for aquatic areas and adds no new fields.