DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
1650 ARCH STREET
PHILADELPHIA, PA 19103-2004

CENAP-OPR November 26, 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,[1] NAP 2025-00289-92.

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.[2] AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.[3]

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),[4] the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

[1] While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.
[2] 33 CFR 331.2.
[3] Regulatory Guidance Letter 05-02.
[4] USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

1. SUMMARY OF CONCLUSIONS.

    a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).

        i. Wetland A, Section 404 Jurisdictional

        ii. Wetland B, Section 404 Jurisdictional

        iii. Unnamed Tributary to West Branch White Clay Creek (UNT 1), Section 404 Jurisdictional

2. REFERENCES.

    a. "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule")

    b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023)

    c. *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023)

    d. "Memorandum to the Field Between the U.S. Department of the Army, U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency Concerning the Proper Implementation of 'Continuous Surface Connection' Under the Definition of "Waters of the United States" Under the Clean Water Act" (March 12, 2025)

3. REVIEW AREA.

    The review area is 35.09 acres, located off South Jennersville Road, in Penn Township, Chester County, PA; identified as Tax Parcel: 58-4-50.3. The center of the review area is located at 39.812399° -75.870596°. The review area is identified on the site plan titled, "*Sketch Plan for AJD for the Penn CSG 2 LLC"*, prepared by Mid-Penn Engineering Corporation, 1 sheet, dated June 4, 2025, last revised on November 24, 2025.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED.

   Christina River

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER.

   Unnamed Tributary to West Branch White Clay Creek (UNT 1) flows south through the review area and offsite through a stone culvert under a railroad bed. Upon exiting the review area, UNT 1 merges into West Branch White Clay Creek south of Kelton Road. West Branch White Clay Creek merges with the Middle Branch to form the main stem of White Clay Creek within the White Clay Creek Preserve in London Britain Township, PA. White Clay Creek merges with the Christina River near Churchman's Marsh in Stanton, DE. The Christina River becomes a Traditional Navigable Water (TNW) at the upstream side of the fixed bridge in Christiana, DE.

6. SECTION 10 JURISDICTIONAL WATERS[5]: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.[6]

   N/A

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in Section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative

[5] 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

[6] This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A

b. The Territorial Seas (a)(1)(ii): N/A

c. Interstate Waters (a)(1)(iii): N/A

d. Impoundments (a)(2): N/A

e. Tributaries (a)(3):

Unnamed Tributary to West Branch White Clay Creek (UNT 1), is a perennial riffle/run headwater stream that collects surface runoff and shallow groundwater. UNT 1 has an ordinary high-water mark and defined bed and bank. It flows south for 1,002 linear feet through the review area and is connected to the Christina River (TNW), as identified in the above flow path described in Section 5.

f. Adjacent Wetlands (a)(4):

Wetland A is a 1.6-acre palustrine emergent (PEM) habitat within an herbaceous field near the northwestern corner of the review area. This wetland collects surface water runoff from upslope adjacent properties, as well as seasonal high groundwater. Wetland A extends outside of the review area to the south and is contiguous with Wetland B. Wetland A is an (a)(4) adjacent jurisdictional wetland, as it directly abuts a relatively permanent jurisdictional tributary (UNT 1).

Wetland B is a 14.22-acre emergent/scrub-shrub/forested wetland habitat within the review area that collects surface water from upslope areas, as well as shallow regional groundwater. Wetland B extends outside of the review area to the west and is contiguous with Wetland A. Wetland B is jurisdictional as an (a)(4) adjacent wetland, as it directly abuts a jurisdictional relatively permanent tributary (UNT 1).

g. Additional Waters (a)(5): N/A

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not "waters of the United States," even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).[7]

N/A

b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).

N/A

9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.

a. USACE October 15, 2025, site visit and memorandum for record (MFR).

b. Aquatic resources delineation plan titled, "*Sketch Plan for AJD for the Penn CSG 2 LLC"*, prepared by Mid-Penn Engineering Corporation, 1 sheet, dated June 4, 2025, last revised on November 24, 2025.

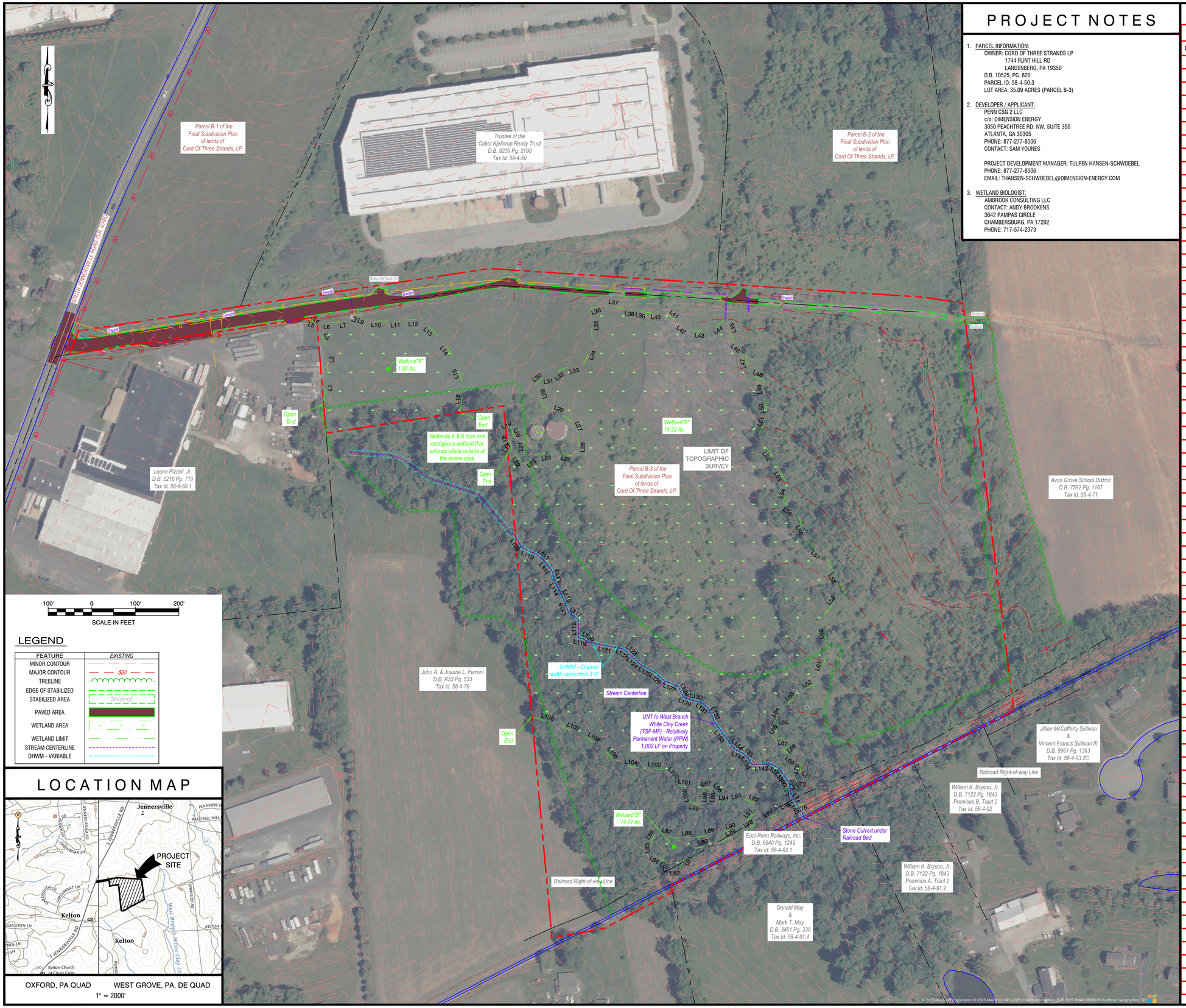
c. Wetland delineation report titled, "*Jurisdictional Determination Request for the Penn CSG 2 LLC Solar Project*", prepared by Mid-Penn Engineering Corporation, dated August 13, 2025.

d. List of Navigable and Non-Navigable Waters in the Philadelphia District.

10. OTHER SUPPORTING INFORMATION: N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

[7] 88 FR 3004 (January 18, 2023)



PROJECT NOTES

1. PARCEL INFORMATION:
   OWNER: CORD OF THREE STRANDS LP
   1744 FLINT HILL RD
   LANDENBERG, PA 19350
   D.B. 10525, PG. 620
   PARCEL ID: 58-4-50.3
   LOT AREA: 35.09 ACRES (PARCEL B-3)

2. DEVELOPER / APPLICANT:
   PENN CSG 2 LLC
   c/o: DIMENSION ENERGY
   3050 PEACHTREE RD. NW, SUITE 350
   ATLANTA, GA 30305
   PHONE: 877-277-8506
   CONTACT: SAM YOUNES

   PROJECT DEVELOPMENT MANAGER: TULPEN HANSEN-SCHWOEBEL
   PHONE: 877-277-8506
   EMAIL: THANSEN-SCHWOEBEL@DIMENSION-ENERGY.COM

3. WETLAND BIOLOGIST:
   AMBROOK CONSULTING LLC
   CONTACT: ANDY BROOKENS
   3642 PAMPAS CIRCLE
   CHAMBERSBURG, PA 17202
   PHONE: 717-574-2373

LEGEND

FEATURE	EXISTING
MINOR CONTOUR	
MAJOR CONTOUR	520
TREELINE	
EDGE OF STABILIZED STABILIZED AREA	Stabilized
PAVED AREA	
WETLAND AREA	
WETLAND LIMIT	
STREAM CENTERLINE	
OHWM - VARIABLE	

LOCATION MAP

OXFORD, PA QUAD WEST GROVE, PA, DE QUAD
1" = 2000'

Parcel Line Table			Parcel Line Table		
Line #	Length	Direction	Line #	Length	Direction
L1	77.50	S5° 51' 26.23"W	L72	22.84	N88° 44' 38.15"E
L2	52.24	S0° 59' 46.14"E	L73	20.36	N4° 08' 01.40"W
L3	48.64	S22° 29' 53.04"E	L74	36.50	N28° 26' 44.62"W
L4	32.95	S47° 06' 30.86"E	L75	17.42	N68° 03' 52.73"E
L5	23.60	N68° 09' 31.72"W	L76	36.88	N67° 03' 05.98"E
L6	41.28	N89° 44' 20.76"W	L77	62.32	N65° 31' 49.82"E
L7	29.27	S77° 48' 56.20"W	L78	38.07	N59° 26' 58.44"E
L8	20.44	S34° 54' 03.88"W	L79	56.84	N66° 00' 47.39"E
L9	37.48	N63° 03' 48.10"W	L80	78.88	N75° 10' 34.33"E
L10	38.53	N86° 19' 56.73"W	L81	44.78	N21° 30' 38.97"E
L11	46.29	S87° 12' 35.03"W	L82	24.75	N88° 38' 43.94"E
L12	38.00	S86° 14' 29.03"W	L83	19.42	S27° 56' 43.70"E
L13	62.95	N45° 42' 21.47"W	L84	35.42	S59° 34' 50.53"E
L14	56.01	N34° 54' 44.77"W	L85	28.48	S6° 13' 15.01"E
L15	69.60	N17° 03' 12.41"W	L86	23.68	S32° 31' 58.28"W
L16	59.09	N8° 58' 18.07"E	L87	43.76	N73° 06' 08.82"W
L17	13.87	S41° 35' 12.24"W	L88	57.00	S87° 07' 18.34"W
L18	43.99	S17° 37' 24.95"E	L89	49.98	S79° 47' 46.20"W
L19	11.97	S64° 54' 46.13"W	L90	50.59	S74° 13' 52.46"W
L20	29.76	N20° 15' 40.87"W	L91	63.13	S40° 33' 14.99"W
L21	34.38	N6° 40' 24.37"W	L92	40.42	S64° 53' 31.44"E
L22	25.18	N33° 32' 22.33"W	L93	31.24	N74° 58' 18.82"E
L23	33.84	S52° 47' 16.30"W	L94	33.83	S88° 21' 39.44"E
L24	50.63	S80° 25' 33.49"W	L95	17.03	S11° 48' 30.05"W
L25	50.24	N74° 45' 00.77"W	L96	21.52	S41° 12' 34.49"E
L26	48.18	S2° 19' 40.17"W	L97	23.14	N85° 46' 19.65"E
L27	42.25	S24° 03' 06.58"E	L98	37.45	N9° 00' 16.76"E
L28	71.12	S64° 06' 58.90"E	L99	18.54	S78° 04' 45.58"E
L29	53.50	S18° 42' 44.22"E	L100	36.50	S9° 11' 35.54"E
L30	23.84	S50° 04' 57.22"W	L101	21.97	S83° 52' 41.22"E
L31	17.32	S83° 01' 55.12"W	L102	49.85	S41° 04' 42.88"E
L32	32.04	S55° 22' 52.57"W	L103	48.25	S86° 07' 27.40"E
L33	50.43	S77° 48' 22.01"W	L104	60.98	S83° 30' 30.44"E
L34	51.24	S20° 51' 12.06"W	L105	56.56	S39° 40' 08.91"E
L35	80.19	S1° 31' 33.81"E	L106	50.43	S60° 26' 40.04"E
L36	25.74	S72° 54' 14.07"W	L107	54.05	S66° 15' 36.98"E
L37	50.77	N80° 14' 05.02"W	L108	70.22	S72° 28' 56.05"E
L38	29.68	N83° 58' 34.13"W	L109	27.73	N31° 38' 21.79"W
L39	23.56	N76° 13' 11.06"W	L110	38.45	N65° 45' 17.65"W
L40	43.53	N87° 56' 09.09"W	L111	21.12	N49° 13' 24.70"W
L41	34.47	N53° 37' 43.03"W	L112	30.91	N36° 50' 50.52"W
L42	34.66	N54° 49' 58.65"W	L113	25.55	N14° 35' 44.17"W
L43	44.85	N88° 21' 41.47"W	L114	28.70	N27° 51' 10.70"W
L44	45.84	S52° 28' 02.76"W	L115	23.05	N23° 02' 51.95"W
L45	49.64	N18° 54' 43.53"W	L116	24.26	N19° 48' 00.54"W
L46	38.47	N48° 32' 11.54"W	L117	27.49	N54° 48' 32.86"W
L47	57.15	N10° 26' 56.61"W	L118	42.74	N1° 03' 23.76"W
L48	34.22	N68° 38' 25.23"W	L119	10.70	N78° 56' 59.66"W
L49	38.93	N3° 41' 36.79"W	L120	15.05	N57° 56' 29.36"W
L50	48.08	N8° 46' 23.33"W	L121	77.22	N79° 15' 17.57"W
L51	45.83	N27° 43' 03.42"E	L122	13.33	N60° 13' 43.28"W
L52	68.87	N33° 50' 20.52"W	L123	11.97	N45° 53' 28.03"W
L53	71.00	N26° 54' 59.02"W	L124	31.50	N46° 31' 08.04"W
L54	34.25	N22° 29' 29.48"E	L125	32.32	N62° 11' 04.26"W
L55	44.50	N48° 48' 42.14"W	L126	33.61	N49° 53' 26.92"W
L56	69.53	N22° 23' 31.26"W	L127	35.93	N66° 43' 39.35"W
L57	59.93	N45° 08' 01.99"W	L128	25.40	N25° 03' 40.50"W
L58	80.56	N28° 13' 48.00"W	L129	17.86	N66° 14' 12.25"W
L59	69.28	N42° 16' 26.65"E	L130	23.51	N78° 55' 14.36"W
L60	88.20	N4° 04' 16.89"W	L131	22.63	N51° 30' 27.11"W
L61	71.38	N17° 09' 27.17"E	L132	36.58	N24° 52' 32.52"W
L62	45.53	N60° 48' 21.29"E	L133	65.64	N35° 56' 40.55"W
L63	49.05	N47° 30' 35.79"E	L134	15.88	N46° 08' 19.78"W
L64	44.82	N33° 51' 48.27"E	L141	13.38	N66° 23' 03.66"W
L65	16.97	N66° 52' 46.57"W	L135	17.83	N51° 53' 22.19"W
L66	31.02	N29° 19' 48.35"E	L136	18.56	N27° 56' 38.83"W
L67	45.39	N81° 26' 47.36"W	L142	44.35	S88° 04' 22.75"W
L68	31.89	N46° 24' 45.72"E	L137	20.77	N61° 15' 02.54"W
L69	53.27	N51° 14' 43.33"W	L138	39.95	N34° 24' 42.01"W
L70	25.04	N12° 12' 54.26"E	L139	26.92	N11° 43' 17.78"W
L71	18.68	N55° 06' 27.82"W	L140	61.68	N29° 51' 07.04"W

SEAL:

BY	DESCRIPTION	No	DATE
	REVISIONS		
CRW	REVISIONS PER USACE COMMENTS	3	11-24-25
CRW	REVISIONS PER USACE COMMENTS	2	10-21-25
CRW	REVISIONS PER USACE COMMENTS	1	10-20-25

DWR:	J.R.W.
ENR:	C.R.W.
DESIGN BY:	C.R.W.
DRAWN BY:	C.R.W.
CHECK BY:	D.J.U.
DATE:	6-4-25

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PHONE: (570)-240-2514 EMAIL: info@mid-pennengineering.com

SKETCH PLAN FOR AJD

FOR THE

PENN CSG 2 LLC

PENN TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA

MPE PROJECT NO: 10P3-24-22.10, 10P3-24-23.10

DRAWING NO: SK-1

SHEET NO: 1 of 1