# APPROVED JURISDICTIONAL DETERMINATION FORM 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 I	INFORMATION
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- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 15, 2014 Wetland VII-1, Wetland VII-2, Wetland VII-3, Wetland VII-4, and Wetland VII-5, Open Water (Pond) VII-7, and Unnamed Tributary to Middle Branch Wyalusing Creek
- B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Baltimore District, CENAB-OP-RPA-2012-00530 (Pennsy Supply, Incorporated/Lawton Quarry Lane Road/JD)
- C. PROJECT LOCATION AND BACKGROUND INFORMATION: This Jurisdictional Determination (JD) is limited to the area of review which is identified as the "Study Area" on the map prepared by Water's Edge Hydrology, and prepared for EarthRes Group, Incorporated, entitled: "Figure 6: Map of Field Delineated Wetlands, Pennsy Supply, Incorporated, Lawton Quarry, Middletown & Forest Lake Townships, Susquehanna County, Pennsylvania", dated May 5, 2014, last revised July 31, 2014, Sheet 1 of 1, and does not assess areas beyond the "Study Area". The "Study Area" consists of 236.3 acres and is within the boundaries of a proposed surface mine permit for the expansion of an existing operating stone quarry. This JD Form consists of information associated with Wetland VII-1, Wetland VII-2, Wetland VII-3, Wetland VII-4, Wetland VII-5, Open Water (Pond) VII-7, and Unnamed Tributary to Middle Branch Wyalusing Creek.

	Wetland VII-1, Wetland VII-2, Wetland VII-3, Wetland VII-4, Wetland VII-5, Open Water (Pond) VII-7, and Unnamed Tributary to Middle Branch Wyalusing Creek.
	State: Pennsylvania County/parish/borough: Susquehanna/Middletown and Forest Lake TWPs City: Montrose Center coordinates of site (lat/long in degree decimal format): Lat. 41.84114° N , Long76.05034° W  Universal Transverse Mercator: UTM Y: 4632671.52315246/ UTM X: 412796.632967408  Name of nearest waterbody: Unnamed Tributary to Middle Branch Wyalusing Creek  Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Unnamed Tributary to Middle Branch  Wyalusing Creek, which flows to Wyalusing Creek, which flows to the Susquehanna River (TNW)  Name of watershed or Hydrologic Unit Code (HUC): 2050106  Check if map/diagram of review area and/or potential jurisdictional areas is/are 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:  ☐ Field Determination. Date(s): May 24, 2012; February 19, 2014; June 26, 2014
SEC	CTION II: SUMMARY OF FINDINGS
Α.	RHA SECTION 10 DETERMINATION OF JURISDICTION.
	re are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the few area. [Required]  Waters subject to the ebb and flow of the tide.  Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:
В.	CWA SECTION 404 DETERMINATION OF JURISDICTION.
The	ere are "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	1. Waters of the U.S.  a. Indicate presence of waters of U.S. in review area (check all that apply):  TNWs, including territorial seas  Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly or indirectly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands
	b. Identify (estimate) size of waters of the U.S. in the review area:  Non-wetland waters:

<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>&</sup>lt;sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

Streams Total = 1,473 linear feet (0.643 acre) Unnamed Tributary to Middle Branch Wyalusing Creek = 1,363 linear feet (0.626 acre) Stream S2 = 110 linear feet (0.017 acre)

Open Water (Ponded): VII-7 = 0.03 acre

Wetlands: Total = 40.14 acres Wetland VII-1 = 16.89 acres Wetland VII-2 = 16.99 acres Wetland VII-3 = 1.48 acres Wetland VII-4 = 0.89 acre Wetland VII-5 = 3.89 acres

c. Limits (boundaries) of jurisdiction based on: 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual, Regional Supplemen to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, and the Ordinary High Water Mark of the stream.

Elevation of established OHWM (if known):

 Non-regulated waters/wetlands (check if applicable):<sup>3</sup> ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: .

#### SECTION III: CWA ANALYSIS

### TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW

Identify TNW:

Summarize rationale supporting determination:

Wetland adjacent to TNW Summarize rationale supporting conclusion that wetland is "adjacent":

## B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody4 is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for

<sup>3</sup> Supporting documentation is presented in Section III.F.

Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

Cha	racte	ristics of non-TNWs that flow directly or indirectly into T	NW
(i)	Cone	eral Area Conditions:	
(i)		ershed size:	
		nage area:	
	Aver	age annual rainfall:	
	Aver	rage annual snowfall:	
		-8-	
(ii)	Phys	sical Characteristics:	
()	(a)	Relationship with TNW:	
	, ,	Tributary flows directly into TNW.	W
		Tributary flows through tributaries before entering TN	W.
		Project waters are river miles from TNW.	
		Project waters are river miles from RPW.	
		Project waters are aerial (straight) miles from TNW.	
		Project waters are aerial (straight) miles from Kr w.	
		Project waters cross or serve as state boundaries. Explain:	
		Identify flow route to TNW <sup>5</sup> :	
		1 Classes First Order Stream	
		Tributary stream order, if known: First Order Stream.	
		Characteristics (check all that apply):	
	(b)	General Tributary Characteristics (check all that apply):  Tributary is: Natural	
		Tributary is: Natural Artificial (man-made). Explain:	
		Manipulated (man-altered). Explain	
		Manipulated (man altered). Express	
		Tributary properties with respect to top of bank (estimat	re):
		Average width:	
		Average depth:	
		Average side slopes:.	
		Primary tributary substrate composition (check all that apply	/):
		Silts Sands	Concrete
		Cobbles Gravel	☐ Muck
		☐ Bedrock ☐ Vegetation. Type/% cover	•
		Other. Explain:	
		Tributary condition/stability [e.g., highly eroding, sloughing	g banks]. Explain: .
		Presence of run/riffle/pool complexes. Explain: .	
		Tributary geometry.	
		Tributary gradient (approximate average slope):	
	(c)	Flow:	
		Tributary provides for: Estimate average number of flow events in review area/year	**
		Estimate average number of flow events in feview area year	••
		Describe flow regime: . Other information on duration and volume: .	
		Other information on duration and votation	
		Surface flow is . Characteristics:.	
		Surface now is	
		Subsurface flow: unknown. Explain findings: N/A.	
		Dye (or other) test performed:	
		Tributary has (check all that apply):	
		☐ Red and banks	
		OHWM <sup>6</sup> (check all indicators that apply):	the appearance of litter and debric
		clear, natural line impressed on the bank	the presence of litter and debris destruction of terrestrial vegetation
		changes in the character of soil	the presence of wrack line
		□ shelving □	the presence of wrack fine

shelving

<sup>&</sup>lt;sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW. <sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

	vegetation matted down, bent, or absent leaf litter disturbed or washed away sediment deposition water staining water staining step (list):
	☐ other (list): ☐ Discontinuous OHWM. <sup>7</sup> Explain:
	If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):    High Tide Line indicated by:
(iii)	Chemical Characteristics: Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc. Explain: Identify specific pollutants, if known:
	Biological Characteristics. Channel supports (check all that apply):  Riparian corridor. Characteristics (type, average width):  Wetland fringe. Characteristics:  Habitat for:  Federally Listed species. Explain findings:  Fish/spawn areas. Explain findings:  Other environmentally-sensitive species. Explain findings:  Aquatic/wildlife diversity. Explain findings:
CI	naracteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW
(i)	Physical Characteristics:  (a) General Wetland Characteristics: Properties: Wetland size: square feet ( acres). Wetland type. Explain: Wetland quality. Explain: Project wetlands cross or serve as state boundaries. Explain:
	(b) General Flow Relationship with Non-TNW: Flow is:.
	Surface flow is: Confined Characteristics: .
	Subsurface flow: Explain findings: .  Dye (or other) test performed:
	(c) Wetland Adjacency Determination with Non-TNW:  Directly abutting Not directly abutting Discrete wetland hydrologic connection. Explain: Ecological connection. Explain: Separated by berm/barrier. Explain:
	(d) Proximity (Relationship) to TNW Project wetlands are river miles from TNW. Project waters are aerial (straight) miles from TNW. Flow is from: Estimate approximate location of wetland as within the floodplain.
	(ii) Chemical Characteristics: Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:.

7Ibid.

	Identify specific pollutants, if kn	own:.		
	(iii) Biological Characteristics. We Riparian buffer. Characteri Vegetation type/percent com	ver. Explain:	I that apply): ):	
	Federally Listed species Fish/spawn areas. Expla Other environmentally- Aquatic/wildlife diversi	sensitive species. Explain	findings:	
			anv)	
	<ol> <li>Characteristics of all wetlands adjated All wetland(s) being considered</li> </ol>	in the cumulative analysis	s:	
	For each wetland, specify the fo	llowing:		
	Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
	Summarize overall biological, chem	ical and physical function	s being performed:	
C.	SIGNIFICANT NEXUS DETERMINA	TION		
	A significant nexus analysis will assess by any wetlands adjacent to the tributa of a TNW. For each of the following si wetlands, has more than a speculative Considerations when evaluating signif of water in the tributary and its proxin wetlands. It is not appropriate to dete tributary and its adjacent wetland or loutside of a floodplain is not solely det  Draw connections between the feature discussed in the Instructional Guidebe.  Does the tributary, in combination TNWs, or to reduce the amount of  Does the tributary, in combination other species, such as feeding, nest  Does the tributary, in combination support downstream foodwebs?  Does the tributary, in combination biological integrity of the TNW?	ituations, a significant neor insubstantial effect or icant nexus include, but mity to a TNW, and the frmine significant nexus between a tributary and terminative of significant so documented and the elook. Factors to consider with its adjacent wetlands pollutants or flood waters with its adjacent wetlandsing, spawning, or rearing with its adjacent wetlands with its adjacent wetlands with its adjacent wetlands	exus exists if the tributary, in continuous the chemical, physical and/or hare not limited to the volume, difference on the result of the tributased solely on any specific three the TNW). Similarly, the fact and enexus.  Iffects on the TNW, as identified include, for example:  (if any), have the capacity to carry reaching a TNW?  (if any), provide habitat and lifect young for species that are present is (if any), have the capacity to transport of the transport	mbination with all of its adjacent biological integrity of a TNW. uration, and frequency of the flow utary and all its adjacent shold of distance (e.g. between a adjacent wetland lies within or in the Rapanos Guidance and y pollutants or flood waters to ycle support functions for fish and in the TNW? usfer nutrients and organic carbon that to the physical, chemical, or
	holowe			
	findings of presence or absence of	significant nexus below,	oused an in-	y or indirectly into TNWs. Explain go to Section III.D:
	TNWs. Explain findings of prese	tion III.D:	unt nexus essex,	flows directly or indirectly into outary in combination with all of its
	presence or absence of significant	nexus below, based on a	ic mounty	at the RPW. Explain findings of all of its adjacent wetlands, then go to
D	THAT APPLY):			
	TNWs and Adjacent Wetlands.     TNWs: linear feet     Wetlands adjacent to TNWs:	. Check all that apply and width (ft), Or, acres.	provide size estimates in review ass.	area:

2. RPWs that flow directly or indirectly into TNWs.

	☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that
	tributary is perennial:  Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are
	seasonally: The Unnamed Tributary to Middle Branch wysitusing Greek has been allow. The stream consists of a
	three or more months of each year) flow and is, therefore, identified as a kit with seasonal flow. The defined bed and bank, cobbles, gravels, lack of vegetation within the channel confines, etc. Water was flowing within the channel during the site visits.
	Provide estimates for jurisdictional waters in the review area (check all that apply):
	Tributary waters: 1,363 linear feet (0.626 acres).
	Other non-wetland waters: 0.03 acres.
	Identify type(s) of waters: Open Water (Pond) VII-7.
3.	Non-RPWs8 that flow directly or indirectly into TNWs.
٥.	The state of the s
	TNW is jurisdictional. Data supporting this conclusion is provided at section many
	Provide estimates for jurisdictional waters within the review area (check all that apply):
	Tributary waters: linear feet ( acre)
	Other non-wetland waters: acres.
	Identify type(s) of waters:
4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
4.	Wetlands directly abut RPW and that are jurisdictional as adjacent wetlands.  Wetlands directly abut RPW and that are jurisdictional as adjacent wetlands.  Provide data and rationale
	Wetlands directly abutting an RPW where tributaries typically new year relation with the indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is
	directly abutting an RPW:  Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is  Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is
	Wetlands directly abutting an RPW where tributaries typically now seasonally. The vide data the wetland is directly seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly seasonal in Section III.B and rationale in Section III.D.2 wetland VII-3. Wetland VII-3.
	abutting an RPW: A direct connection from Wetland VIII, Wealaning Creek was verified by the Corps during the field
	Wetland VII-5 to the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was verified by the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Corporation of the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle Branch Wyardshig Cleek was very the Unnamed Tributary to Middle
	(touching no break in connection) the nontidal intermittent (with seasonal now) stream of the connection)
	Unnamed Tributary to Middle Branch Wyalusing Creek.
	Provide acreage estimates for jurisdictional wetlands in the review area: 40.14 acres.
	Wetland VII-1 = 16.89 acres Wetland VII-2 = 16.99 acres
	Wetland VII-3 = 1.48 acres
	Wetland VII-4 = 0.89 acre
	Wetland VII-5 = 3.89 acres
5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.
٥.	Wetlands adjacent to but not directly abutting an RPW that flow directly of indirectly into Travis.  Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this
	and with similarly situated adjacent wetlands, have a significant nexts which are conclusion is provided at Section III.C.
	Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.
6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.  Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and
	with similarly situated adjacent wetlands, have a significant fields with a 1111 deep situated
	conclusion is provided at Section III.C.
	Provide estimates for jurisdictional wetlands in the review area: acres.
	a
7	7. Impoundments of jurisdictional waters.  As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
	The state of the criteria for one of the criteria for one of the categories presented and the
	Demonstrate that water is isolated with a nexus to commerce (see E below).

 $<sup>^8 \</sup>text{See}$  Footnote # 3.  $^9$  To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E.	ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY
	SUCH WATERS (CHECK ALL THAT APPLY): 10  which are or could be used by interstate or foreign travelers for recreational or other purposes.  from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
	which are or could be used for industrial purposes by industries in interstate commerce.
	Interstate isolated waters. Explain:
	Other factors. Explain:
	Identify water body and summarize rationale supporting determination:
	Provide estimates for jurisdictional waters in the review area (check all that apply):
	Tributary waters: linear feet width (it).
	Other non-wetland waters: acres.
	Identify type(s) of waters:
	Wetlands: acres.
F.	NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):  If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
	Review area included isolated waters with no substantial nexts to interstate (or foreign) commerce.  Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the
	"Migratory Bird Rule" (MBR).  Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
	Other: (explain, if not covered above):
	Provide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional
	judgment (check all that apply):  Non-wetland waters (i.e., rivers, streams):  linear feet width (ft).
	Non-wettand waters (i.e., trees, salednes)
	Lakes/ponds: acres.  Other non-wetland waters: acres. List type of aquatic resource:
	Wetlands: acres.
	Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such
	a finding is required for jurisdiction (check all that apply):
	Non-wetland waters (i.e., rivers, streams): linear feet ( acre)
	Lakes/ponds: acres.
	Other non-wetland waters: acres. List type of aquatic resource.
	☐ Wetlands:
C	ECTION IV: DATA SOURCES.
5	. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked
A	. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked home shall be an expense below):
	and requested, appropriately reference sources below):  Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: EarthRes Group, Incorporated.
	Dota 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/defineation report.
	Data sheets prepared by the Corps:
	☐ Corps navigable waters' study: ☐ U.S. Geological Survey Hydrologic Atlas:
	USGS NHD data.
	<ul> <li>USGS 8 and 12 digit HUC maps.</li> <li>U.S. Geological Survey map(s). Cite scale &amp; quad name: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania.</li> <li>USDA Natural Resources Conservation Service Soil Survey. Citation: Lane Quarry, Site Soil Survey Map, Figure 4, May 11, USDA Natural Resources Conservation Service Soil Survey.</li> </ul>
	USDA Natural Resources Conservation Service Soil Survey. Citation.
	2012.   National wetlands inventory map(s). Cite name: Lane Quarry, October 21, 2011.
	National wetlands inventory map(s). Cite name: Lane Quarry, Getober 21, 2011.  State/Local wetland inventory map(s):

<sup>&</sup>lt;sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

FEMA/FIRM maps: .
100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
Photographs: Aerial (Name & Date): .
Detail Distance Detail Distance inclined in the Wellands delineditin report, children in congarante
Description of the Property of
Pennsylvania" dated May 11, 2012, and photographs taken during the site visits of reordary 19, 2014 and state 26, 2014
Previous determination(s). File no. and date of response letter:
Applicable/supporting case law:
Applicable/supporting scientific literature:
Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD:

#### APPROVED JURISDICTIONAL DETERMINATION FORM 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 IN
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- REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 15, 2014 Wetland H, Wetland I, and Wetland P
- B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Baltimore District, CENAB-OP-RPA-2012-00530 (Pennsy Supply, Incorporated/Lawton Quarry - Lane Road/JD)
- PROJECT LOCATION AND BACKGROUND INFORMATION: This Jurisdictional Determination (1D) is limited to the area of

	review which is identified as the "Study Area" on the map prepared by Water's Edge Hydrology, and prepared for EarthRes Group, Incorporated, entitled: "Figure 6: Map of Field Delineated Wetlands, Pennsy Supply, Incorporated, Lawton Quarry, Middletown & Forest Lake Townships, Susquehanna County, Pennsylvania", dated May 5, 2014, last revised July 31, 2014, Sheet 1 of 1, and does not assess areas beyond the "Study Area". The "Study Area" consists of 236.3 acres and is within the boundaries of a proposed surface mine permit for the expansion of an existing operating stone quarry. This JD Form consists of information associated with Wetland H, Wetland I, and Wetland P.
	State: Pennsylvania County/parish/borough: Susquehanna/Middletown and Forest Lake TWPs City: Montrose Center coordinates of site (lat/long in degree decimal format): Lat. 41.84114° N, Long76.05034° W  Universal Transverse Mercator: UTM Y: 4632671.52315246/ UTM X: 412796.632967408  Name of nearest waterbody: Unnamed Tributary to Middle Branch Wyalusing Creek  Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Unnamed Tributary to Middle Branch Wyalusing Creek, which flows to Wyalusing Creek, which flows to the Susquehanna River (TNW)  Name of watershed or Hydrologic Unit Code (HUC): 2050106
	Check if map/diagram of review area and/or potential jurisdictional areas is/are 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:  ☐ Field Determination. Date(s): May 24, 2012; February 19, 2014; June 26, 2014
	CTION II: SUMMARY OF FINDINGS RHA SECTION 10 DETERMINATION OF JURISDICTION.
	ere are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the iew area. [Required]  Waters subject to the ebb and flow of the tide.  Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:
В.	CWA SECTION 404 DETERMINATION OF JURISDICTION.
Γhe	ere are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	1. Waters of the U.S.  a. Indicate presence of waters of U.S. in review area (check all that apply):  TNWs, including territorial seas  Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly or indirectly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters:

Enclosure 3

<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>&</sup>lt;sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

c. Limits (boundaries) of jurisdiction based on: 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual, Regional Supplemen to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, and the Ordinary High Water Mark of the stream.

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup> Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The "Study Area" contains three (3) wetlands (Wetland H, Wetland I, and Wetland P) which meet the criteria of the 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region as wetlands. However, these three (3) wetlands are not intrastate wetlands, are not abutting or adjacent to waters of the United States, exhibit no surface hydrologic connection to a waters of the United States, have no significant nexus to a TNW, and do not meet the definition of a waters of the United States in accordance with 33 CFR 328.3. Therefore, Wetland I, and Wetland P are considered to be isolated wetlands and not waters of the United States, and are not subject to federal regulation under Section 404 of the Clean Water Act.

#### SECTION III: CWA ANALYSIS

### A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

TNW 1.

Identify TNW:

Summarize rationale supporting determination:

Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

# B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody4 is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

- Characteristics of non-TNWs that flow directly or indirectly into TNW
  - General Area Conditions:

Watershed size: Drainage area:

Average annual rainfall:

<sup>&</sup>lt;sup>3</sup> Supporting documentation is presented in Section III.F. <sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

	Aver	erage annual snowfall:	
(ii)	Phys (a)	Relationship with TNW:  Tributary flows directly into TNW.  Tributary flows through tributaries before entering TNW.  Project waters are river miles from TNW.  Project waters are river miles from RPW.  Project waters are aerial (straight) miles from RPW.  Project waters are aerial (straight) miles from RPW.  Project waters cross or serve as state boundaries. Explain: .  Identify flow route to TNW <sup>5</sup> :	
	(b)	Tributary stream order, if known:    General Tributary Characteristics (check all that apply):   Tributary is:	
		Tributary properties with respect to top of bank (estimate):  Average width:  Average depth:  Average side slopes:	
		Primary tributary substrate composition (check all that apply):  Silts Sands Gravel Bedrock Vegetation. Type/% cover: Other. Explain:	☐ Concrete ☐ Muck
		Tributary condition/stability [e.g., highly eroding, sloughing banks]. For Presence of run/riffle/pool complexes. Explain:  Tributary geometry:  Tributary gradient (approximate average slope):	Explain: .
	(c)	ributary provides for: Estimate average number of flow events in review area/year: Describe flow regime: Other information on duration and volume:	
		Surface flow is . Characteristics: .	
		Subsurface flow: unknown. Explain findings: .  Dye (or other) test performed: .	
		changes in the character of soil destruction the present the prese	ence of litter and debris on of terrestrial vegetation ence of wrack line

sediment sorting

multiple observed or predicted flow events

abrupt change in plant community

vegetation matted down, bent, or absent

leaf litter disturbed or washed away

sediment deposition

Discontinuous OHWM. Explain:

water staining other (list):

<sup>&</sup>lt;sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break. 7Ibid.

			If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):    High Tide Line indicated by:
	(iii)	Che	mical Characteristics: racterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.). Explain: Identify specific pollutants, if known:
	(iv)	Biol	ogical Characteristics. Channel supports (check all that apply): Riparian corridor. Characteristics (type, average width): Wetland fringe. Characteristics: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain findings: Aquatic/wildlife diversity. Explain findings:
,	Che	ract	eristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW
٠.			
	(i)	(a)	Sical Characteristics:  General Wetland Characteristics: Properties: Wetland size: square feet ( acres). Wetland type. Explain: Wetland quality. Explain: Project wetlands cross or serve as state boundaries. Explain:
		(b)	General Flow Relationship with Non-TNW: Flow is:.
			Surface flow is: Confined Characteristics: .
			Subsurface flow: Explain findings: .  Dye (or other) test performed: .
		(c)	Wetland Adjacency Determination with Non-TNW:  ☐ Directly abutting ☐ Discrete wetland hydrologic connection. Explain: ☐ Ecological connection. Explain: ☐ Separated by berm/barrier. Explain:
		(d)	Proximity (Relationship) to TNW Project wetlands are river miles from TNW. Project waters are aerial (straight) miles from TNW. Flow is from: Estimate approximate location of wetland as within the floodplain.
	(ii)	Ch	nemical Characteristics:  aracterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:.  entify specific pollutants, if known:
	(i	ii) Bi	ological Characteristics. Wetland supports (check all that apply):    Riparian buffer. Characteristics (type, average width):   Vegetation type/percent cover. Explain:   Habitat for:   Federally Listed species. Explain findings:   Fish/spawn areas. Explain findings:   Other environmentally-sensitive species. Explain findings:

		Aquatic/wildlife diversi	ty. Explain findings:		
3	s. (	Characteristics of all wetlands adja All wetland(s) being considered	acent to the tributary (if a in the cumulative analysis:	ny)	
		For each wetland, specify the fo	ollowing:		
		Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
		Summarize overall biological, chem	ical and physical functions	being performed:	
		NIFICANT NEXUS DETERMINA		of the tributary it	self and the functions performed
	by ar of a T wetla Cons of wa wetla tribu outsi	rny wetlands adjacent to the tributary. For each of the following signals, has more than a speculative siderations when evaluating significater in the tributary and its proximands. It is not appropriate to detentary and its adjacent wetland or lide of a floodplain is not solely detentated in the Instructional Guidebours of the tributary, in combination of TNWs, or to reduce the amount of the poes the tributary, in combination of the poes the tributary in the poes the poes the poes the tributary in the poes the po	ituations, a significant new or insubstantial effect on icant nexus include, but a nity to a TNW, and the furmine significant nexus between a tributary and the eminative of significant is documented and the effock. Factors to consider in with its adjacent wetlands (pollutants or flood waters rewith its adjacent wetlands (ing, spawning, or rearing you with its adjacent wetlands (with its adja	the chemical, physical and/or be re not limited to the volume, do inctions performed by the tribuased solely on any specific thre he TNW). Similarly, the fact armexus.  The tribuacity of the t	shold of distance (e.g. between a adjacent wetland lies within or in the Rapanos Guidance and y pollutants or flood waters to ycle support functions for fish and in the TNW?
	•	biological integrity of the TNW?			
	Not	e: the above list of considerations			
	1.	Significant nexus findings for no findings of presence or absence of	significant nexus below, or	about on the	y or indirectly into TNWs. Explain go to Section III.D:
	2.	TNWs. Explain findings of prese	ion III.D:		flows directly or indirectly into utary in combination with all of its
	3.	Section III.D:	nexus below, based on the	anouncy in comme	
D.	DI	ETERMINATIONS OF JURISDIC			
	1.	TNWs and Adjacent Wetlands.  ☐ TNWs: linear feet ☐ Wetlands adjacent to TNWs:	Check all that apply and p width (ft), Or, acres acres.	provide size estimates in review a	area:
	2.	tributary is perennial:  Tributaries of TNW where to jurisdictional. Data support seasonally:  Provide estimates for jurisc	ributaries typically flow yes tributaries have continuous to ting this conclusion is prov lictional waters in the revieuear feet (acres).	a "	ide data and rationale indicating that three months each year) are tionale indicating that tributary flows

	Identify type(s) of waters:
3.	Non-RPWs <sup>8</sup> that flow directly or indirectly into TNWs.  Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
	Provide estimates for jurisdictional waters within the review area (check all that apply):  Tributary waters: linear feet ( acre)  Other non-wetland waters: acres.  Identify type(s) of waters:
4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.  Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

		TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional waters within the review area (check all that apply):  Tributary waters: linear feet ( acre)  Other non-wetland waters: acres.  Identify type(s) of waters: .
	4.	<ul> <li>Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.</li> <li>□ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.</li> <li>□ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:</li> <li>□ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:</li> </ul>
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.  Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.  Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional wetlands in the review area: acres.
	7.	Impoundments of jurisdictional waters.  As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.  Demonstrate that impoundment was created from "waters of the U.S.," or  Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  Demonstrate that water is isolated with a nexus to commerce (see E below).
E.	D	SOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE,  EGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY  UCH WATERS (CHECK ALL THAT APPLY): 10    which are or could be used by interstate or foreign travelers for recreational or other purposes.    which are or could be used for industrial purposes by industries in interstate commerce.    which are or could be used for industrial purposes by industries in interstate commerce.    Interstate isolated waters. Explain:    Other factors. Explain:
	I	dentify water body and summarize rationale supporting determination:
	P [	Provide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet width (ft).  Other non-wetland waters: acres.  Identify type(s) of waters:  Wetlands: acres.

 <sup>8</sup>See Footnote # 3.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 To complete the analysis refer to the key in Section based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for 10 Prior to asserting or declining CWA jurisdiction for the corps are 10 Prior to asserting to the corps and EPA HQ for 10 Prior to asserting to the corps are 10 P

F.	Wetland Delineation Manual and/or appropriate i	Regional Supplements.
	Prior to the Jan 2001 Supreme Court decision	ii iii biiiii ce, iii
	Waters do not meet the "Significant Nexus" stand	lard, where such a finding is required for jurisdiction. Explain:
	Other: The "Study Area" also contains three (3) 1987 U.S. Army Corps of Engineers Wetlands D Delineation Manual: Northcentral and Northeast wetlands, are not abutting or adjacent to waters of United States, have no significant nexus to a TN with 33 CFR 328.3. Therefore, Wetland H, Wet United States, and are not subject to federal regular	wetlands (Wetland H, Wetland I, and Wetland P) which meet the criteria of the elineation Manual and Regional Supplement to the Corps of Engineers Wetland Region as wetlands. However, these three (3) wetlands are not intrastate f the United States, exhibit no surface hydrologic connection to a waters of the W, and do not meet the definition of a waters of the United States in accordance
	Wetland H: 0.372 acre	
	Wetland I: 0.003 acre Wetland P: 0.361 acre	
		rs in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR endangered species, use of water for irrigated agriculture), using best professional
	indoment (check all that apply):	
	Non-wetland waters (i.e., rivers, streams):	linear feet width (ft).
	Lakes/ponds: acres.  Other non-wetland waters: acres. List type	e of aquatic resource:
	Watlands: acres	
	- cotimates for non-jurisdictional water	ers in the review area that do not meet the "Significant Nexus" standard, where such
	a finding is required for Illrisdiction (check an that a	) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) ( ) (
	Non-wetland waters (i.e., rivers, streams).	inear feet ( acre)
	☐ Lakes/ponds: acres. ☐ Other non-wetland waters: acres. List type Wetlands:	be of aquatic resource:
S	SECTION IV: DATA SOURCES.	
	CALEBOOTING DATA Data reviewed for JD (che	cck all that apply - checked items shall be included in case file and, where checked
A	and requested, appropriately reference sources below	w):
	Maps, plans, plots or plat submitted by or on behal	w): ehalf of the applicant/consultant: EarthRes Group, Incorporated. f of the applicant/consultant.
	To occurrently data cheers/neithealloll	TCDOIL.
	Office does not concur with data sheets/def	ineation report.
	Data sheets prepared by the Corps:	
	Corps navigable waters' study: U.S. Geological Survey Hydrologic Atlas:	
	☐ USGS NHD data.	
	☐ USGS 8 and 12 digit HUC maps. ☐ U.S. Geological Survey map(s). Cite scale & USDA Natural Resources Conservation Servi	quad name: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania. ce Soil Survey. Citation: Lane Quarry, Site Soil Survey Map, Figure 4, May 11,
	2012. Cite par	
	National wetlands inventory map(s). Cite has State/Local wetland inventory map(s):	ile. Dane Quarry,
	FEMA/FIRM maps: .	onal Geodectic Vertical Datum of 1929)
	100-year Floodplain Elevation is: (Natio	
	Photographs: Aerial (Name & Date): .  or Other (Name & Date): Pho Delineation Report, Lane Quarry, Powers Stone, I	tographs included in the wetlands delineation report, entitled: Wetland Investigation & ncorporated, Middletown and Forest Lake Township, Susquehanna County, place taken during the site visits of February 19, 2014 and June 26, 2014.
	Previous determination(s). File no. and date	V. 100p
	Applicable/supporting scientific literature.	
	Other information (please specify):	
	[19] [2] [4] [4] [4] [4] [4] [4] [4] [4] [4] [4	

B. ADDITIONAL COMMENTS TO SUPPORT JD:

#### APPROVED JURISDICTIONAL DETERMINATION FORM 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.

ECTION I	: BACKGROUND	<b>INFORMATION</b>
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- REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 15, 2014 Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland N, Wetland O, Wetland Q, Wetland R and S5
- **DISTRICT OFFICE, FILE NAME, AND NUMBER:** Baltimore District, CENAB-OP-RPA-2012-00530 (Pennsy Supply, Incorporated/Lawton Quarry - Lane Road/JD)
- C. PROJECT LOCATION AND BACKGROUND INFORMATION: This Jurisdictional Determination (JD) is limited to the area of

	review which is identified as the "Study Area" on the map prepared by Water's Edge Hydrology, and prepared for EarthRes Group, Incorporated, entitled: "Figure 6: Map of Field Delineated Wetlands, Pennsy Supply, Incorporated, Lawton Quarry, Middletown & Forest Lake Townships, Susquehanna County, Pennsylvania", dated May 5, 2014, last revised July 31, 2014, Sheet 1 of 1, and does not assess areas beyond the "Study Area". The "Study Area" consists of 236.3 acres and is within the boundaries of a proposed surface mine permit for the expansion of an existing operating stone quarry. This JD Form consists of information associated with Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland N, Wetland Q, Wetland R and S5.
	State: Pennsylvania County/parish/borough: Susquehanna/Middletown and Forest Lake TWPs City: Montrose Center coordinates of site (lat/long in degree decimal format): Lat. 41.84114° N , Long76.05034° W Universal Transverse Mercator: UTM Y: 4632671.52315246/ UTM X: 412796.632967408  Name of nearest waterbody: Unnamed Tributary to Middle Branch Wyalusing Creek  Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Unnamed Tributary to Middle Branch Wyalusing Creek, which flows to Wyalusing Creek, which flows to the Susquehanna River (TNW)  Name of watershed or Hydrologic Unit Code (HUC): 2050106  Check if map/diagram of review area and/or potential jurisdictional areas is/are 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:  ☐ Field Determination. Date(s): May 24, 2012; February 19, 2014; June 26, 2014
	<u>CTION II: SUMMARY OF FINDINGS</u> RHA SECTION 10 DETERMINATION OF JURISDICTION.
	ere are no "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the iew area. [Required]  Waters subject to the ebb and flow of the tide.  Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:
B.	CWA SECTION 404 DETERMINATION OF JURISDICTION.
The	ere are no "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]
	1. Waters of the U.S.  a. Indicate presence of waters of U.S. in review area (check all that apply):  TNWs, including territorial seas  Wetlands adjacent to TNWs Relatively permanent waters² (RPWs) that flow directly or indirectly into TNWs Non-RPWs that flow directly or indirectly into TNWs Wetlands directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs Impoundments of jurisdictional waters Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area: Non-wetland waters:

Enclosure 4

<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>&</sup>lt;sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

c. Limits (boundaries) of jurisdiction based on: 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual, Regional Supplemen to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, and the Ordinary High Water Mark of the stream.

Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable).3 Notentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The "Study Area" contains nine (9) wetlands (Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland N, Wetland O, Wetland Q, and Wetland R) and one (1) stream (S5) which are the by-products of man-made construction activities upon uplands. These nine (9) wetlands and one (1) stream were created incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with permit numbers 58032802 and 58062806 of the State. In accordance with the 1986 Preamble to 33 CFR 328.3, water filled depressions created in dry land incidental to construction activity, and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States, are not generally considered to be waters of the United States. Therefore, Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland N, Wetland O, Wetland Q, Wetland R and Stream S5 are not federally regulated. Wetland N, Wetland Q and Wetland R will be returned to pre-construction conditions in accordance with permit numbers 58032802 and 58062806 of the State. Also, upon completion and reclamation or abandonment of the mining project, Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland O and Stream S5 may be subject to federal regulation under Section 404 of the Clean Water Act.

### SECTION III: CWA ANALYSIS

## TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

TNW

Identify TNW:

Summarize rationale supporting determination:

Wetland adjacent to TNW Summarize rationale supporting conclusion that wetland is "adjacent":

# CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

<sup>&</sup>lt;sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

Chara	cteristics of non-TNWs that flow directly or indirectly into TNW
(i) (	eneral Area Conditions:
' '	atershed size:
Ι	rainage area:
F	verage annual rainfall:
F	verage annual snowfall:
(::) I	hysical Characteristics:
(11)	Relationship with TNW:
	Tributary flows directly into TNW.
	Tributary flows through tributaries before entering TNW.  Project waters are river miles from TNW.
	1 to local material and
	Project vigters are aerial (straight) miles from TNW.
	Project waters are agrial (straight) miles from RPW.
	Project waters cross or serve as state boundaries. Explain:
	Identify flow route to TNW <sup>5</sup> :
	: Floorer First Order Stream.
	Tributary stream order, if known: First Order Stream.
	b) General Tributary Characteristics (check all that apply):
	Tributary is: Natural
	Artificial (man-made). Explain:
	Manipulated (man-altered). Explain:
	Tributary properties with respect to top of bank (estimate):
	Average width:
	Average depth:
	Average side slopes:
	that apply):
	Primary tributary substrate composition (check all that apply):  Silts
	Cobbles Gravel Muck
	Bedrock Vegetation. Type/% cover:
	Other. Explain:
	Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
	Presence of run/riffle/pool complexes Explain:
	Tributary geometry:
	Tributary gradient (approximate average slope):
	(c) Flow:
	Tributary provides for: Estimate average number of flow events in review area/year:
	Describe flow regime: .
	Other information on duration and volume: .
	Surface flow is: Characteristics: .
	Subsurface flow: unknown. Explain findings: .
	Dye (or other) test performed:
	Tributary has (check all that apply):
	☐ Bed and banks ☐ OHWM <sup>6</sup> (check all indicators that apply):
	- I live impressed on the bank   I the presence of fitter and deoris
	The character of soil destruction of terrestrial
	shelving the presence of wrack line
	vegetation matted down, bent, or absent sediment sorting
	☐ leaf litter disturbed or washed away ☐ scour

1.

<sup>&</sup>lt;sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup>A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

sediment deposition water staining other (list):	multiple observed or predicted flow events abrupt change in plant community
☐ Discontinuous OHWM. Explain:	
If factors other than the OHWM were used to determ  High Tide Line indicated by:  oil or scum line along shore objects  fine shell or debris deposits (foreshore)  physical markings/characteristics  tidal gauges  other (list):	survey to available datum;
(iii) Chemical Characteristics: Characterize tributary (e.g., water color is clear, discolore Explain: Identify specific pollutants, if known:	ed, oily film; water quality; general watershed characteristics, etc.)
(iv) Biological Characteristics. Channel supports (check a Riparian corridor. Characteristics (type, average wi Wetland fringe. Characteristics:  Habitat for:  Federally Listed species. Explain findings:  Fish/spawn areas. Explain findings:  Other environmentally-sensitive species. Explain findings:  Aquatic/wildlife diversity. Explain findings:	in findings:
Characteristics of wetlands adjacent to non-TNW that flo	w directly or indirectly into TNW
(i) Physical Characteristics:  (a) General Wetland Characteristics:  Properties:  Wetland size: square feet ( acres).  Wetland type. Explain:  Wetland quality. Explain:  Project wetlands cross or serve as state boundaries.  (b) General Flow Relationship with Non-TNW:	Explain: .
Flow is:  Surface flow is: Confined  Characteristics: .	
Subsurface flow: Explain findings: .  Dye (or other) test performed:	
(c) Wetland Adjacency Determination with Non-TNV  Directly abutting  Not directly abutting  Discrete wetland hydrologic connection. I  Ecological connection. Explain:  Separated by berm/barrier. Explain:	
(d) Proximity (Relationship) to TNW Project wetlands are river miles from TNW. Project waters are aerial (straight) miles from Flow is from:. Estimate approximate location of wetland as with	
<ul> <li>(ii) Chemical Characteristics:         Characterize wetland system (e.g., water color is clear, characteristics; etc.). Explain:.     </li> <li>Identify specific pollutants, if known:.</li> </ul>	, brown, oil film on surface; water quality; general watershed

7Ibid.

		(iii) Biological Characteristics. Wetland supports (check all that apply):	
		Riparian buffer. Characteristics (type, average width):	
		Vegetation type/percent cover. Explain:	
		Habitet for:	
		Federally Listed species. Explain findings:	
		Dr. 1 / grand Evaluin findings'	
		Other environmentally-sensitive species. Explain initialities.	
		Aquatic/wildlife diversity. Explain findings:	
3	3. (	3. Characteristics of all wetlands adjacent to the tributary (if any)	
		All wetland(s) being considered in the cumulative analysis:	
		For each wetland, specify the following:	
		Directly abuts? (Y/N) Size (in acres) Directly abuts? (Y/N) Size (in acres)	res)
		<u>Directly abuts? (Y/N)</u> <u>Size (in acres)</u>	
		Summarize overall biological, chemical and physical functions being performed:	
	SIG	SIGNIFICANT NEXUS DETERMINATION	
		St. Anihutawy itself and the fu	inctions performed
	A sig	A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the red by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and	biological integrity
	hy a	by any wetlands adjacent to the tributary to determine it they organize the tributary in combination with	h all of its adjacent
	ofa	of a TNW For each of the following situations, a significant nexts of a transfer and/or biological inte	grity of a TNW.
	wetl	wetlands, has more than a speculative or insubstantial effect of the volume duration, and f	requency of the flow
	Con	Considerations when evaluating significant nexus include, but an included by the tributary and all i	ts adjacent
	of w	of water in the tributary and its proximity to a live, and the same and its threshold of dista	nce (e.g. between a
	wetl	wetlands. It is not appropriate to determine significant nexus based solely on any specific the charge wetlands. It is not appropriate to determine significant nexus based solely on any specific the fact an adjacent we	tland lies within or
		I'm a discont wotland or netween a Hiputal y and the	
	outs	outside of a floodplain is not solely determinative of significant	
		Draw connections between the features documented and the effects on the TNW, as identified in the Rapane	s Guidance and
	Dra	Draw connections between the features documented and the effects of the sample:	
	disc	Draw connections between the features documented and the connection of the connectio	flood waters to
		Does the tributary, in combination with its adjacent wetlands (it ally), the property of	
		<ul> <li>Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support for Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support for Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support for Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support for Does the tributary.</li> </ul>	inctions for fish and
	•	• Does the tributary, in combination with its adjacent wetlands (If any), provide habitat the medium of the TNW? other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?	
		other species, such as feeding, nesting, spawning, or rearing young for species that are present in the results of the species, such as feeding, nesting, spawning, or rearing young for species that are present in the results of the species thad a species that are present in the species that are present in	and organic carbon tha
	•	• Does the tributary, in combination with its adjacent wettards (if any), the base of the	
		support downstream foodwebs?  • Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physica	l, chemical, or
	•	• Does the tributary, in combination with its adjacent wettands (it any);	
		biological integrity of the TNW?	
		Note: the above list of considerations is not inclusive and other functions observed or known to occur should	d be documented
	bel	below:	into TNWs Explain
	1	1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly	II D.
	1.	1. Significant nexus findings for non-RPW that has no adjacent wettands and nows directly of interest of findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section I	11.D.
		the new DDW flows directly	or indirectly into
	2.	<ol> <li>Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination.</li> </ol>	nation with all of its
		TNWs Explain findings of presence of absence of significant nexts of the	
		adjacent wetlands, then go to Section III.D:	
		DRIVE At the depart directly about the RPW. F	xplain findings of
	3.	3. Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW but the	t wetlands, then go to
		Section III.D:	
		D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARI	E (CHECK ALL
D.	D	). DETERMINATIONS OF JURISDICTIONAL TRANSPORTER	
	T	THAT APPLY):	
		1. TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:	
	1.	1. TNWs and Adjacent Wetlands. Check an above 7. TNWs: linear feet width (ft), Or, acres.	
		Wetlands adjacent to TNWs: acres.	
		크림이 마른 <del></del>	
	2	2. RPWs that flow directly or indirectly into TNWs.	tionale indicating that
	4.	<ol> <li>RPWs that flow directly or indirectly into TNWs.</li> <li>Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and ra</li> </ol>	
		tributary is perennial:	

		Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:
		Provide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet ( acres).  Other non-wetland waters: acres.  Identify type(s) of waters: .
	3.	Non-RPWs <sup>8</sup> that flow directly or indirectly into TNWs.  Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional waters within the review area (check all that apply):  Tributary waters:  Other non-wetland waters:  Identify type(s) of waters:
	4.	Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.  Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.  Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:  Wetlands directly abutting an RPW:  Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.  Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.  Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional wetlands in the review area: acres.
	7.	Impoundments of jurisdictional waters.  As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.  □ Demonstrate that impoundment was created from "waters of the U.S.," or  □ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  □ Demonstrate that water is isolated with a nexus to commerce (see E below).
2.	SI	COLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, EGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY UCH WATERS (CHECK ALL THAT APPLY): 10  which are or could be used by interstate or foreign travelers for recreational or other purposes.  from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.  which are or could be used for industrial purposes by industries in interstate commerce.  Interstate isolated waters. Explain:  Other factors. Explain:  dentify water body and summarize rationale supporting determination:
	Id	dentity water body and summarize rationals supporting accounting water body and summarize rationals supporting

 <sup>8</sup>See Footnote # 3.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

	Provide estimates for jurisdictional waters in the review area (check all that apply):
	Tributary waters: linear feet width (it).
	Other non-wetland waters: acres.
	Identify type(s) of waters:
	Wetlands: acres.
F.	NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):  If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.  Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
	Prior to the Jan 2001 Supreme Court decision in SWANCE, and Torrison
	Waters do not meet the "Significant Nexus" standard, where such a finding in expension of the Linited States. Therefore, Wetland L.  Waters do not meet the "Significant Nexus" standard, where such a finding in expension of the Linited States. Therefore, Wetland M,  Waters do not meet the "Significant Nexus" standard, where such a finding in expension of the Linited L, wetland M,  Other: (explain, if not covered above): As previously stated, the "Study Area" (9) wetlands (Wetland R) and one (1) stream (S5) which are the Wetland VII-6, Wetland B, Wetland C, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R are under reclamation in accordance with incidental to mining activities. Additionally, Wetland N, Wetland Q, and Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) which are the Wetland R) and one (1) stream (S5) whic
	sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting obtained solutions of the United States, are not generally considered to be waters of the United States. Therefore, Wetland L, definition of waters of the United States, are not generally considered to be waters of the United States. Therefore, Wetland L, Wetland M, Wetland VII-6, Wetland B, Wetland C, Wetland N, Wetland Q, Wetland Q, Wetland Q, Wetland R and Stream S5 are not federally Wetland M, Wetland N, Wetland R, will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland Q, and Wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland R will be reclaimed in accordance with permit numbers 58032802 and 58062806 regulated. Wetland N, Wetland R, wetland S, wetland R, wetland R, wetland S, wetland R, wetland S, wetland R, wetland S, wetland R, wetla
	Created Incidental to Mining:
	Wetland VII-6 (PEM): 0.31 acre
	Wetland B (PEM): 0.010 acre
	Wetland C (PEM): 0.025 acre
	Wetland O (PEM): 0.011 acre
	Wetland L (PEM) = $0.007$ acre
	Wetland M (PEM) = $0.005$ acre
	S5 = 994  linear feet  (0.091  acre)
	Reclaimed Wetland Areas: Wetland N (PEM): 304 square feet (0.007 acre)
	Wetland Q (PEM): 479 square feet (0.011 acre) Wetland R (PEM): 479 square feet (0.011 acre)
	Wetland R (PEM): 479 square neer (0.011 and 0)
	Provide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture).
	judgment (check all that apply):  Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
	Lakes/ponds: acres.
	Other non-wetland waters: acres. List type of aquatic resource.
	Wetlands: acres.
	Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
	Non-wetland waters (i.e., rivers, streams).
	Lakes/ponds: acres.  Other non-wetland waters: acres. List type of aquatic resource:
	Wetlands:
	SECTION IV: 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):  and requested, appropriately reference sources below):  EarthRes Group, Incorporated.
	and requested, appropriately reference sources below):  And requested, appropriately reference sources below):  Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant.  EarthRes Group, Incorporated.
	Description of the standard description of the approximation of the appr
	Office concurs with data sheets/delineation report.
	Data sheets prepared by the Corps:
	Corps navigable waters' study:

П	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: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania. U.S. Geological Survey map(s). Cite scale & quad name: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania. USDA Natural Resources Conservation Service Soil Survey. Citation: Lane Quarry, Site Soil Survey Map, Figure 4, May 11,
201	2. Gita name: Lane Quarry, October 21, 2011.
$\boxtimes$	2. National wetlands inventory map(s). Cite name: Lane Quarry, October 21, 2011.
	State/Local wetland inventory map(s):
	FEMA/FIRM maps: . (National Geodectic Vertical Datum of 1929)
	100=yCal 1 loodplain 21
	Photographs: Aerial (Name & Date):  Or Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report in the photographs in the photogr
Del	lineation Report, Lane Quarry, Powers Stone, Incorporated, Middletown and Forest Bake Forman, June 26, 2014.  Insylvania", dated May 11, 2012, and photographs taken during the site visits of February 19, 2014 and June 26, 2014.
Per	nnsylvania", dated May 11, 2012, and photographs taken during the
	Previous determination(s). File no. and date of response letter:
	Applicable/supporting case law:
	Applicable/supporting scientific literature:
	Other information (please specify):
В.	ADDITIONAL COMMENTS TO SUPPORT JD:

## APPROVED JURISDICTIONAL DETERMINATION FORM 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
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- A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 15, 2014 Stream S2
- **B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Baltimore District, CENAB-OP-RPA-2012-00530 (Pennsy Supply, Incorporated/Lawton Quarry Lane Road/JD)
- C. PROJECT LOCATION AND BACKGROUND INFORMATION: This Jurisdictional Determination (JD) is limited to the area of review which is identified as the "Study Area" on the map prepared by Water's Edge Hydrology, and prepared for EarthRes Group, Incorporated, entitled: "Figure 6: Map of Field Delineated Wetlands, Pennsy Supply, Incorporated, Lawton Quarry, Middletown & Forest Lake Townships, Susquehanna County, Pennsylvania", dated May 5, 2014, last revised July 31, 2014, Sheet 1 of 1, and does not assess areas beyond the "Study Area". The "Study Area" consists of 236.3 acres and is within the boundaries of a proposed surface mine permit for the expansion of an existing operating stone quarry. This JD Form consists of information associated with Stream S2.

State: Pennsylvania County/parish/borough: Susquehanna/Middletown and Forest Lake TWPs City: Montrose Center coordinates of site (lat/long in degree decimal format): Lat. 41.84114° N , Long. -76.05034° W

Universal Transverse Mercator: UTM Y: 4632671.52315246/ UTM X: 412796.632967408

Name of nearest waterbody: Unnamed Tributary to Middle Branch Wyalusing Creek

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Unnamed Tributary to Middle Branch

Wyalusing Creek, which flows to Wyalusing Creek, which flows to the Susquehanna River (TNW)

Name of watershed or Hydrologic Unit Code (HUC): 2050106

☐ Check if map/diagram of review area and/or potential jurisdictional areas is/are 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:

☐ Field Determination. Date(s): May 24, 2012; February 19, 2014; June 26, 2014

#### **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. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

#### 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. [Required]

1. Waters of the U.S.

a.	Indica	te presence of waters of U.S. in review area (check all that apply): 1
		TNWs, including territorial seas
		Wetlands adjacent to TNWs
		Relatively permanent waters <sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
		Non-RPWs that flow directly or indirectly into TNWs
		Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
		Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
		Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
		Impoundments of jurisdictional waters
		Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:

Non-wetland waters:

c. Limits (boundaries) of jurisdiction based on: 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual, Regional Supplemen to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, and the Ordinary High Water Mark of the stream.

<sup>&</sup>lt;sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).



<sup>&</sup>lt;sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

Elevation of established OHWM (if known):

Non-regulated waters/wetlands (check if applicable).3

Notentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

Explain: The "Study Area" contains one (1) ephemeral stream, which flows into a nontidal wetland complex consisting of palustrine forested wetlands and palustrine scrub-shrub wetlands. In accordance with 33 CFR Part 328.3, waters of the United States include those waters listed in 33 CFR Part 328.3(a). The ephemeral channel located within the "Study Area" is not currently used, was not used in the past, and may not be susceptible to use in interstate or foreign commerce; is not an interstate wetland; is not an intrastate stream which, the use, degradation or destruction of could affect interstate or foreign commerce; and is not an impoundment. Therefore, Stream S2 does not meet the definition of a waters of the United States in accordance with 33 CFR 328.3, and is not subject to federal regulation under Section 404 of the Clean Water Act.

### SECTION III: CWA ANALYSIS

### A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

TNW

Identify TNW:

Summarize rationale supporting determination:

Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

# B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under Rapanos have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

# Characteristics of non-TNWs that flow directly or indirectly into TNW

### General Area Conditions:

Watershed size:

Drainage area:

Average annual rainfall:

Average annual snowfall:

<sup>&</sup>lt;sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

(ii)	Phys	sical Characteristics: Relationship with TNW:
	(a)	Tributary flows directly into INW.
		Tributary flows through tributaries below the first through tributaries below the first tributaries below the firs
		1 loject materia m
		Tiology waters and
		gerial (straight) miles from RPW.
		Project waters cross or serve as state boundaries. Explain:
		Identify flow route to TNW <sup>5</sup> :
		Tributary stream order, if known: .
	(b)	General Tributary Characteristics (check all that apply):
	(0)	Tributary is: Natural
		Artificial (man-made). Explain:  Manipulated (man-altered). Explain:
		Tributary properties with respect to top of bank (estimate):  Average width:
		Average depth:
		Average side slopes:
		Primary tributary substrate composition (check all that apply):
		Gravel Muck
		☐ Bedrock ☐ Vegetation. Type/% cover:
		Other. Explain:
		Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
		Presence of run/riffle/pool complexes. Explain:
		Tributary geometry: .
		Tributary gradient (approximate average slope):
	(0)	Flow:
	(0)	T !!
		Estimate average number of flow events in review area year.
		Describe flow regime: .
		Other information on duration and volume: .
		Surface flow is . Characteristics: .
		Subsurface flow: unknown. Explain findings:
		Dye (or other) test performed:
		Tributary has (check all that apply):
		Ded and banks
		OUWM <sup>6</sup> (check all indicators that apply):
		C. this representation
		the presence of wrack line
		shelving wegetation matted down, bent, or absent sediment sorting
		☐ leaf litter disturbed or washed away ☐ scour ☐ multiple observed or predicted flow events
		sediment deposition
		Water stanning
		other (list): Discontinuous OHWM. Explain:
		Uniscontinuous Offwire. Explain.
		If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):  High Tide Line indicated by:  Mean High Water Mark indicated by:
		ing. The same same

<sup>&</sup>lt;sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

<sup>6</sup> A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

<sup>7</sup> Ibid.

			oil or scum line along shore objects fine shell or debris deposits (foreshore) physical markings/characteristics tidal gauges other (list):	<ul> <li>☐ survey to available datum;</li> <li>☐ physical markings;</li> <li>☐ vegetation lines/changes in vegetation types.</li> </ul>
	(iii)		emical Characteristics:  tracterize tributary (e.g., water color is clear, discolored,  Explain:  Identify specific pollutants, if known:	oily film; water quality; general watershed characteristics, etc.).
			Riparian corridor. Characteristics (type, average widt Wetland fringe. Characteristics: Habitat for: Federally Listed species. Explain findings: Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Explain Aquatic/wildlife diversity. Explain findings:	findings:
2.	Ch	aract	teristics of wetlands adjacent to non-TNW that flow	unious, or annual v
	(i)	Phy (a)	ysical Characteristics:  General Wetland Characteristics:  Properties: Wetland size: square feet ( acres). Wetland type. Explain: Wetland quality. Explain: Project wetlands cross or serve as state boundaries.	xplain: .
		(b)	General Flow Relationship with Non-TNW: Flow is:.	
			Surface flow is: Confined Characteristics: .	
			Subsurface flow: Explain findings: .  Dye (or other) test performed: .	
		(c)	Wetland Adjacency Determination with Non-TNW:	
			☐ Directly abutting ☐ Not directly abutting ☐ Discrete wetland hydrologic connection. Ex ☐ Ecological connection. Explain:	xplain: .
			Separated by berm/barrier. Explain:	
		(d	d) Proximity (Relationship) to TNW Project wetlands are river miles from TNW. Project waters are aerial (straight) miles from T Flow is from:. Estimate approximate location of wetland as within	그는 뭐요 그 뭐니다. [14] [14] [14] [15] [15] [15] [15] [15]
			Chemical Characteristics: Characterize wetland system (e.g., water color is clear, characteristics; etc.). Explain:.	brown, oil film on surface; water quality; general watershed
			Identify specific pollutants, if known:	all that annly):
		(iii) I	Biological Characteristics. Wetland supports (check Riparian buffer. Characteristics (type, average with Vegetation type/percent cover. Explain:	dth):
		I I	Habitat for:	•
			Fish/spawn areas. Explain findings: Other environmentally-sensitive species. Exp Aquatic/wildlife diversity. Explain findings:	lain findings:

Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis:

For each wetland, specify the following:

Directly abuts? (Y/N)

Size (in acres)

Directly abuts? (Y/N)

Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

### SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the Rapanos Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

- Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
- Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:
- Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS	DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALI
	THAT APPLY):

_	'로마트리아'에 있는데 1000 1000 1000 1000 1000 1000 1000 10
1.	TNWs and Adjacent Wetlands. Check all that apply and provide size estimates in review area:  TNWs: linear feet width (ft), Or, acres.  Wetlands adjacent to TNWs: acres.
2.	<ul> <li>RPWs that flow directly or indirectly into TNWs.</li> <li>☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial:</li> <li>☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:</li> </ul>
	Provide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet ( acres ).  Other non-wetland waters: acres.  Identify type(s) of waters:

3		Non-RPWs <sup>8</sup> that flow directly or indirectly into TNWs.  Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional waters within the review area (check all that apply):  Tributary waters: linear feet ( acre)  Other non-wetland waters: acres.  Identify type(s) of waters:
	4.	<ul> <li>Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.</li> <li>□ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.</li> <li>□ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:</li> <li>□ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:</li> </ul>
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	5.	Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.  Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.
		Provide acreage estimates for jurisdictional wetlands in the review area: acres.
	6.	Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.  Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.
		Provide estimates for jurisdictional wetlands in the review area: acres.
	7.	As a general rule, the impoundment of a jurisdictional tributary relationship for the U.S.," or  Demonstrate that impoundment was created from "waters of the U.S.," or  Demonstrate that water meets the criteria for one of the categories presented above (1-6), or  Demonstrate that water is isolated with a nexus to commerce (see E below).
E.	S	SOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE,  EGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY  UCH WATERS (CHECK ALL THAT APPLY): 10  which are or could be used by interstate or foreign travelers for recreational or other purposes.  which are or could be used by interstate or foreign travelers for recreational or other purposes.  which are or could be used for industrial purposes by industries in interstate commerce.  Interstate isolated waters. Explain:  Other factors. Explain:
	I	dentify water body and summarize rationale supporting determination:
	P [	Provide estimates for jurisdictional waters in the review area (check all that apply):  Tributary waters: linear feet width (ft).  Other non-wetland waters: acres.  Identify type(s) of waters:  Wetlands: acres.
		WATERS INCLUDING WETLANDS (CHECK ALL THAT APPLY):

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

See Footnote # 3.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
 Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

_	If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers
L	
_	Wetland Delineation Manual and/or appropriate Regional Supplemental  Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.  Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
L	Review area included isolated waters with no substantial nexus to interstate (of foreign) commerce.  Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the
_	"Migratory Bird Rule" (MBR).  Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
L	waters do not meet the Significant
٥	Other: The "Study Area" includes one (1) ephemeral stream, which flows into a nontidal wetland complex consisting of palustrine forested wetlands and palustrine scrub-shrub wetlands. The ephemeral channel does not flow into to an RPW. In accordance with 33 CFR Part 328.3, waters of the United States include those waters listed in 33 CFR Part 328.3(a). The ephemeral channel located within the "Study Area" is not currently used, was not used in the past, and may not be susceptible to use in interstate or foreign within the "Study Area" is not an intrastate stream which, the use, degradation or destruction of could affect commerce; is not an interstate wetland; is not an impoundment. Therefore, Stream S2 does not meet the definition of a waters of the interstate or foreign commerce; and is not an impoundment. Therefore, Stream S2 does not meet the definition of a waters of the United States in accordance with 33 CFR 328.3, and is not subject to federal regulation under Section 404 of the Clean Water Act.
	Stream $S2 = 110$ linear feet (0.017 acre)
	where the sole potential basis of jurisdiction is the MBR
f	Provide acreage estimates for non-jurisdictional waters in the review area, where the <u>sole</u> potential basis of jurisdiction is the MBR actors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional
j	udgment (check all that apply):  linear feet width (ft).
	Non-wetland waters (i.e., fivers, streams).
[	Lakes/ponds: acres.  Other pon-wetland waters: acres. List type of aquatic resource:
[	Other non-wetland waters: acres. List type of aquatic resource.
[	Wetlands: acres.
	Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such
]	Provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates for non-jurisdictional waters in the teview and that do not make the provide acreage estimates are provided as the provided estimates and the provided estimates are provided estimated by the provided estimates and the provided estimates are provided estimated as the provided estimates are provided estimated by the provided estimates are provided estimated estimated estimates are provided estimated estimated estimated estimates are provided estimated
:	a finding is required for jurisdiction (check all that apply).
	Non-wetland waters (i.e., rivers, streams): Initial feet ( all all all all all all all all all a
	Lakes/ponds: acres.
	Other non-wetland waters: acres. List type of aquatic resource:
	Wetlands:
SEC	TION IV: DATA SOURCES.
	SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked
4. S	SUPPORTING DATA. Data reviewed for JD (check an that apply - checked terms shared)
	and requested, appropriately reference sources below):  Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: EarthRes Group, Incorporated.
	1 1-4- an most submitted by or oil Delian of the applicant constraint
	Data sheets prepared/submitted by or on benail of the applicant constitution
	Office concurs with data sheets/delineation report.
	Office does not concur with data sheets/delineation report.
	Data sheets prepared by the Corps:
	Corps payigable waters' study:
	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: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania.  U.S. Geological Survey map(s). Cite scale & quad name: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania.  U.S. Geological Survey map(s). Cite scale & quad name: 7.5 Minute Scale, Lawton Quadrangle, Pennsylvania.
	U.S. Geological Survey map(s). Cite scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute Scale, Lawton Quadrangte, Fernis Production Service Scale & quad name: 7.5 Minute
	National wetlands inventory map(s). Cite name: Lane Quarry, October 21, 2011
	State/Local wetland inventory map(s):
	FEMA/FIRM maps: .
	100-year Floodulain Elevation is: (National Geodectic Vertical Datum of 1723)
	Photographs: Aerial (Name & Date): .  Photographs: Aerial (Name & Date): .  Photographs: Detectors by included in the wetlands delineation report, entitled: Wetland Investigation &
	Photographs: Aerial (Name & Date):  Or Maria (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetland Investigation & Other (Name & Date): Photographs included in the wetlands delineation report, entitled: Wetlands and Photographs included in the wetlands delineation report, entitled: Wetlands and Photographs included in the wetlands delineation report, entitled: Wetlands and Photographs included in the wetlands delineation report, entitled: Wetlands and Photographs included in the wetlands and Photographs included in the wetlands and Photographs in t
	D
	Previous determination(s). File no. and date of response letter:
	Applicable/supporting case law:
	Applicable/supporting scientific literature:
	Other information (please specify):
	가 <del>그 요면이 많이 되었다. 이 사이에 가장 개의 사람이 하는 사이에</del> 보다 보다 보다 보다 보다 되었다. 그 사이에 가장 가장 보다
	B. ADDITIONAL COMMENTS TO SUPPORT JD:
	B. ADDITIONAL COMME