



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

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 11/10/2020

ORM Number: NAB-2020-00229

Associated JDs: N/A

Review Area Location¹: State/Territory: MD City: Prince Frederick County/Parish/Borough: Calvert

Center Coordinates of Review Area: Latitude 38.54791 Longitude -76.58787

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Unnamed Tributary	693	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	During the 4 June 2020 site visit, there was iron flocculation indicating groundwater discharge, no roots or plants were observed in the stream. Three months prior to the site visit flowing water was observed as indicated in the wetland delineation report dated 3 March 2020. Therefore, the stream was determined to flow intermittently.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Unnamed Wetland	0.36	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	During the 4 June 2020 site visit, the soil indicator S1 - sandy mucky mineral was observed, hydrophytic vegetation was satisfied through the dominance test, and four hydrologic indicators were met - surface water, high water table, saturation, and water stained leaves.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.	N/A.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Bay Environmental, Inc. dated 3 March 2020.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A.](#)

Data sheets prepared by the Corps: [N/A.](#)

Photographs: [Other: Ground photographs taken 3 March 2020 by Bay Environmental, Inc. and photographs taken by the Corps on 4 June 2020.](#)

Corps site visit(s) conducted on: [4 June 2020](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [N/A.](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [Online Web Soil Survey](#)

USFWS NWI maps: [NWI online wetland mapper](#)

USGS topographic maps: [N/A.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	12 digit HUC: 020600060505; Hunting Creek watershed
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Data Source (select)	Name and/or date and other relevant information
State/Local/Tribal Sources	Maryland's Environmental Resources and Land Information Network (MERLIN) online data
Other Sources	N/A.

B. Typical year assessment(s): N/A

C. Additional comments to support AJD: The Corps has determined there is a 693 linear-foot a(2) intermittent tributary that contributes flow to Mill Creek, an a(1) water in a typical year and a 0.36 acre a(4) wetland that abuts an a(2) water located within the approximately 3-acre "Area of Review." During the 4 June 2020 site visit, the Corps observed all three wetland parameters in the delineated boundaries directly abutting an intermittent stream with flow for more than 3 months of the year and evidence of a groundwater source due to presence of iron flocculation. The site drains to Mill Creek, a perennial stream of the Lower Patuxent River, through a culvert that flows under MD Route 2/4. Additionally, the Corps documented an eroding feature from MD-2/4 to the culvert. The erosional feature was dry with roots and leaves in the gully. The feature was not considered to be jurisdictional since it only conveyed water from the highway during rain events, which would be considered an ephemeral feature. The Corps has determined all the areas that fall outside of the wetland boundaries as indicated in the wetland delineation plan are uplands and excluded from jurisdictional status. Activities that would result in a regulated Section 404 CWA discharge of dredge or fill material within the approximately 0.36-acre nontidal wetland area and the 693 linear feet of intermittent stream would require a Corps permit.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant:	File Number:	Date:
Attached is:		See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Mr. Frank Plewa, Appeals Coordinator
Telephone: (717) 249-2522
U.S. Army Corps of Engineers
Regulatory Branch, Baltimore District
2 Hopkins Plaza
Baltimore, Maryland 21201
General Number: 410-962-3670
Email: nab-regulatory@usace.army.mil

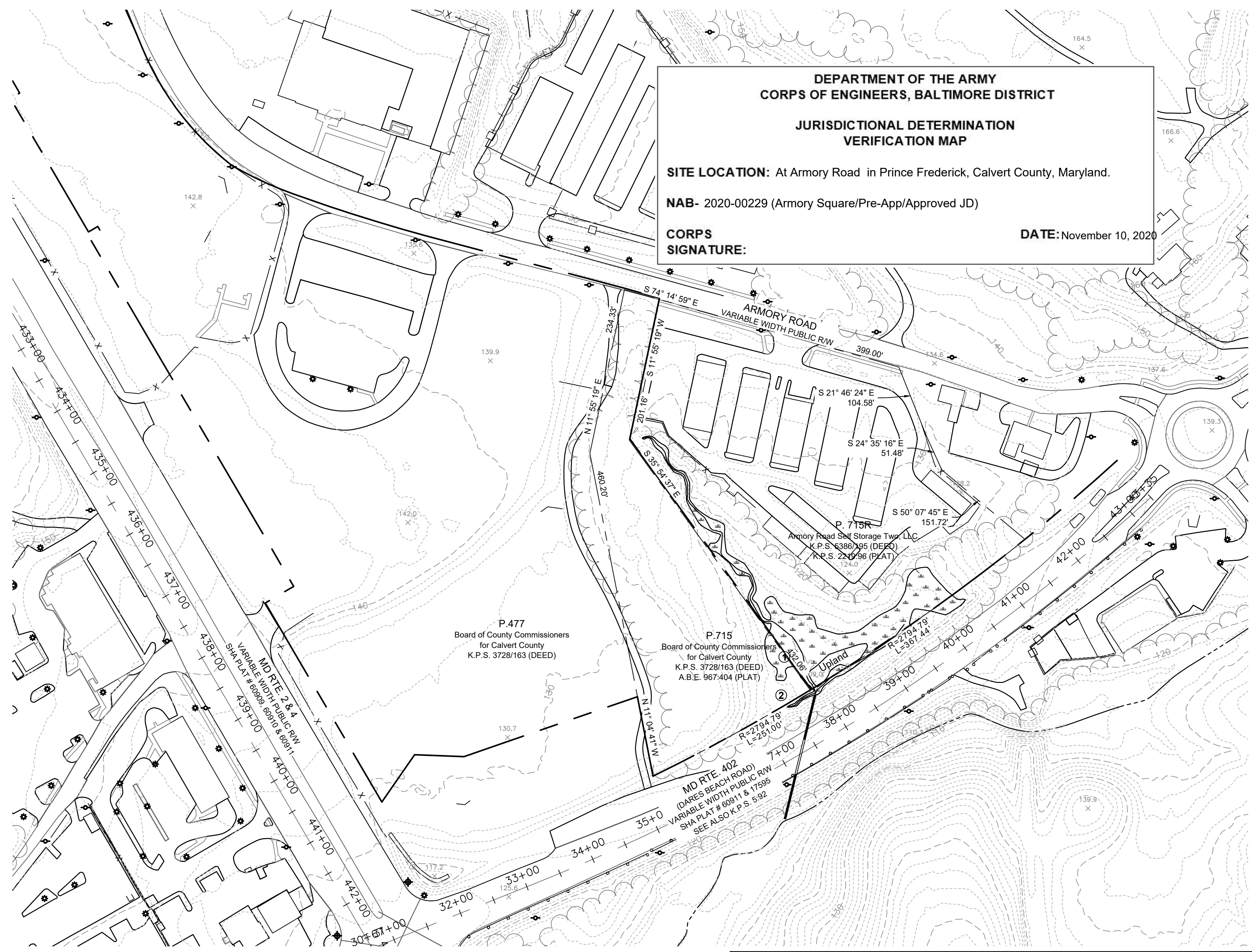
If you only have questions regarding the appeal process you may also contact:
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
General Number: 347-370-4550

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, BALTIMORE DISTRICT**

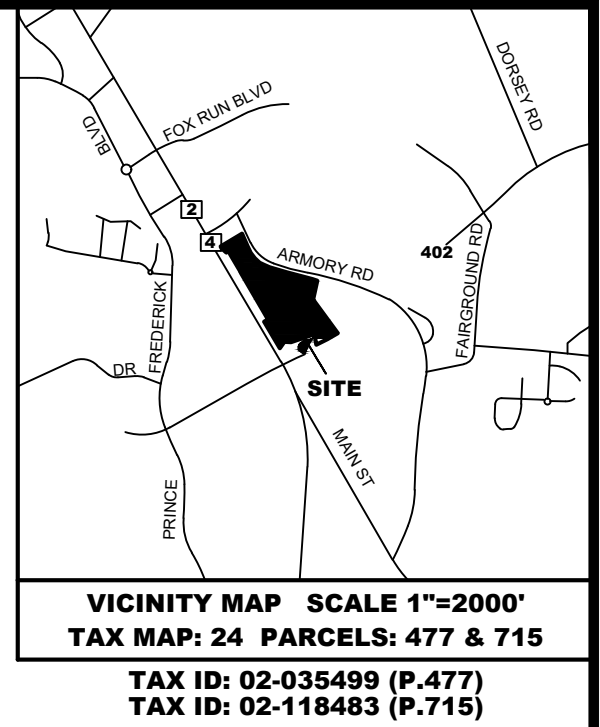
**JURISDICTIONAL DETERMINATION
VERIFICATION MAP**

SITE LOCATION: At Armory Road in Prince Frederick, Calvert County, Maryland.

NAB- 2020-00229 (Armory Square/Pre-App/Approved JD)

CORPS SIGNATURE: _____

DATE: November 10, 2020



- LEGEND**
- Denotes Assigned Premise Address
 - Denotes Non-Tidal Wetlands
 - Denotes Wetland Delineation Data Point Location

SHEET 1 OF 1

**R. A. BARRETT
& ASSOCIATES, INC.**

ENGINEERS & SURVEYORS
100 JIBSAIL DR., SUITE 103
PRINCE FREDERICK, MD 20678
410-257-2255 301-855-5554 FAX: 410-257-3782

WETLAND EXHIBIT OF
PARCELS 477 & 715

**GENERATIONS
ARMORY SQUARE**

LOCATED ON DARES BEACH ROAD IN PRINCE FREDERICK
2ND ELECTION DISTRICT, CALVERT COUNTY, MARYLAND

DATE	03/13/2020
SCALE	1"=100'
DRAWN BY	B.A.G.
DRAWING #	CC2678
FILE #	CC2678WET
JOB #	20833