DEPARTMENT OF THE ARMY
U. S. ARMY CORPS OF ENGINEERS, BALTIMORE DISTRICT
STATE COLLEGE FIELD OFFICE
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CENAB-OPR-P 12 January 2026

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (September 8, 2023) ,[1] NAB-2025-00177-P09 (Core5 North Scranton, LLC AJD).[2]

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.[3] AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.[4]

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

[1] While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.
[2] When documenting aquatic resources within the review area that are jurisdictional under the Clean Water Act (CWA), use an additional MFR and group the aquatic resources on each MFR based on the TNW, the territorial seas, or interstate water that they are connected to. Be sure to provide an identifier to indicate when there are multiple MFRs associated with a single AJD request (i.e., number them 1, 2, 3, etc.).
[3] 33 CFR 331.2.
[4] Regulatory Guidance Letter 05-02.

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),[5] the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

The subject of this approved jurisdictional determination (AJD) is a 275-acre site located in Scott Township, Lackawanna County, Pennsylvania (41.583964 N, -75.645917 W). The predominant land use of the area of review (AOR) is agricultural and forested land. The AOR drains south to the South Branch of Tunkhannock Creek which then flows west into Lackawanna Lake and outlets at the south end of the lake (Figure 1). At the south end of Lackawanna Lake, the South Branch of Tunkhannock Creek continues to flow west approximately 8 miles west to its confluence with Tunkhannock Creek, which then flows approximately 4.3 miles southwest to its confluence with the Susquehanna River (Figure 1). The site is in the Northeastern Forests physiographic province of Pennsylvania. The North Central and Northeast Regional Supplement and data forms were used to perform the resource determinations. The Corps received a request for a Department of the Army (DA) approved jurisdictional determination (AJD) on March 27, 2025, for the subject site located in Scott Township, Lackawanna County, Pennsylvania. On September 12, 2025, the Corps inspected the portions of the site where jurisdiction was questionable within the 275-acre area of review. The Corps' area of review (AOR) encompasses agricultural fields and upland forests with some depressional areas and stream channels. The project area has experienced minor manipulations from past farming activities, including modifications to improve drainage from some portions the site.

The soils on the site are mapped as follows (NRCS Web Soil Survey, 2024):

- Arnot very channery silt loam, 3 to 15 percent slopes, very rocky, somewhat excessively drained, non-hydric (ArC),

- Arnot-Rock outcrop complex, 0 to 8 percent slopes, somewhat excessively drained, non-hydric (AsB),

- Arnot-Rock outcrop complex, 8 to 25 percent slopes, somewhat excessively drained, non-hydric (AsD),

- Arnot-Rock outcrop complex, steep, somewhat excessively drained, nonhydric (ASE),

[5] USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

- Braceville gravelly loam, 2 to 6 percent slopes, moderately well drained, nonhydric (BcB),

- Holly silt loam, 0 to 3 percent slopes, poorly drained, hydric (Hm);

- Mardin channery silt loam, 3 to 8 percent slopes, moderately well drained, nonhydric (McB),
- Mardin channery silt loam, 8 to 25 percent slopes, rubbly, moderately well drained, non-hydric (MhD),

- Medisaprists and Medihemists, 0 to 3 percent slopes, very poorly drained, hydric (MK),

- Oquaga channery loam, 8 to 15 percent slopes, well drained, non-hydric (OcC),

- Philo silt loam, 0 to 3 percent slopes, moderately well drained, non-hydric (Ph),

- Rexford loam, 0 to 5 percent slopes, somewhat poorly drained, non-hydric (ReA),

- Swartswood channery loam, 3 to 8 percent slopes, well drained, non-hydric (SwB),

- Swartswood channery loam, 15 to 25 percent slopes, well drained, non-hydric (SwD),

- Swartswood extremely stony loam, 8 to 25 percent slopes, well drained, nonhydric (SxD),

- Volusia channery silt loam, 0 to 3 percent slopes, somewhat poorly drained, non-hydric (VcA),

- Volusia channery silt loam, 3 to 8 percent slopes, somewhat poorly drained, non-hydric (VcB),

- Volusia channery silt loam, 0 to 8 percent slopes, rubbly, somewhat poorly drained, non-hydric (VxB),

- Wurtsboro channery loam, 3 to 8 percent slopes, moderately well drained, non-hydric (WkB),

- Wurtsboro channery loam, 8 to 15 percent slopes, moderately well drained, non-hydric (WkC),

- Wurtsboro extremely stony loam, 8 to 25 percent slopes, moderately well drained, non-hydric (WxD),

- Wyoming gravelly sandy loam, 3 to 8 percent slopes, somewhat excessively drained, non-hydric (WyB),

- Wyoming gravelly sandy loam, 15 to 25 percent slopes, somewhat excessively drained, non-hydric (WyD), and

- Wyoming gravelly sandy loam, 25 to 45 percent slopes, somewhat excessively drained, non-hydric (WyE).

With the exception of the Holly Silt Loam and the Medisaprists and Medihemists, which are hydric soil types, the remainder and their minor components are classified as non-hydric but may contain hydric inclusions. Based on field observations, supplemental information reviewed by the Corps, and in accordance with the protocol contained within the (1) Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Regional Supplement Version 2.0, and (2) 1987 Corps Delineation Manual, the Corps determined that hydrophytic vegetation, hydric soils, and wetland hydrology indicators occur within the above-mentioned area of review.

Figure 1-Project Area; area of review is a 275-acre area delineated in red. Thicker red line through the middle of the AOR image is Hohensee Road.

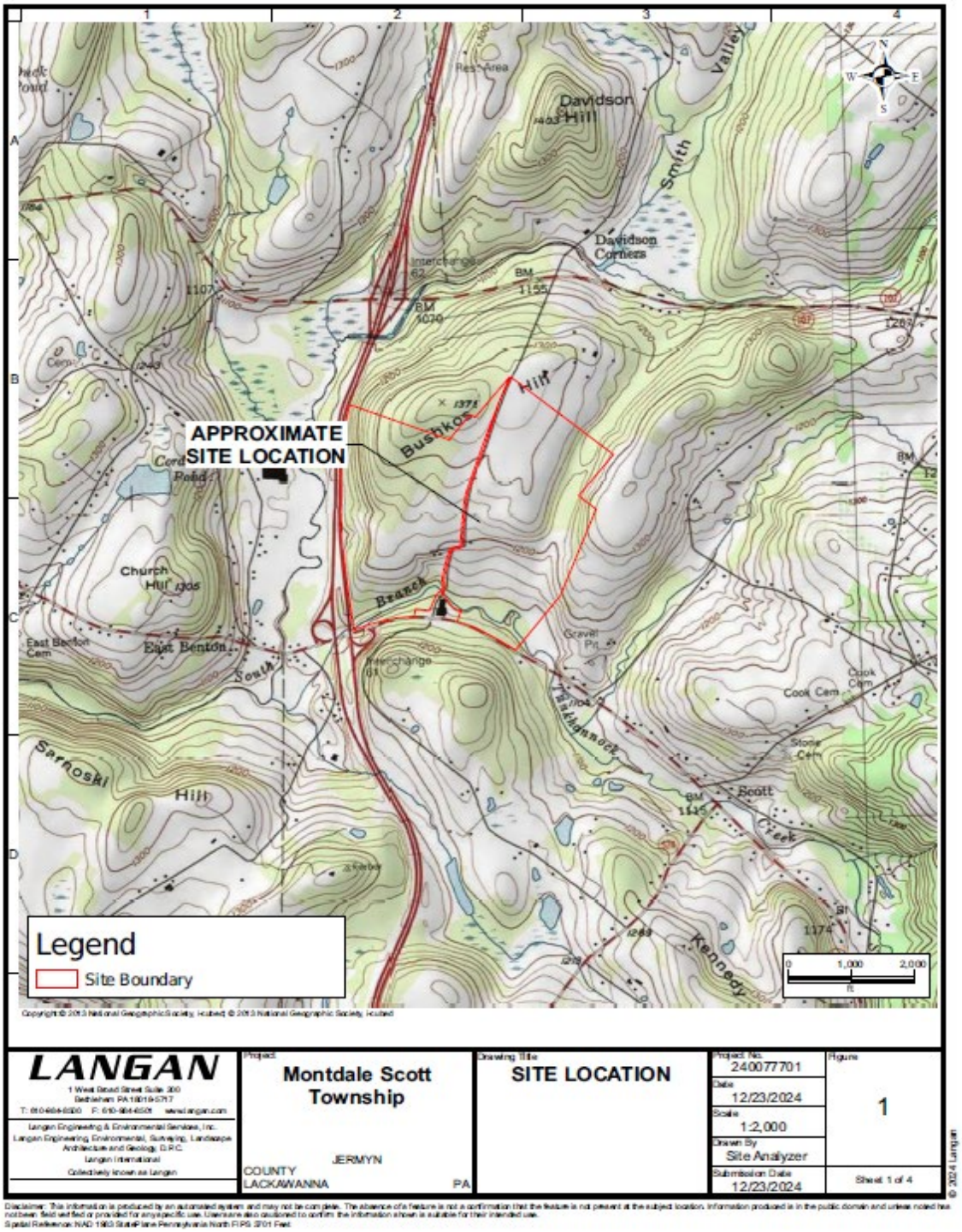
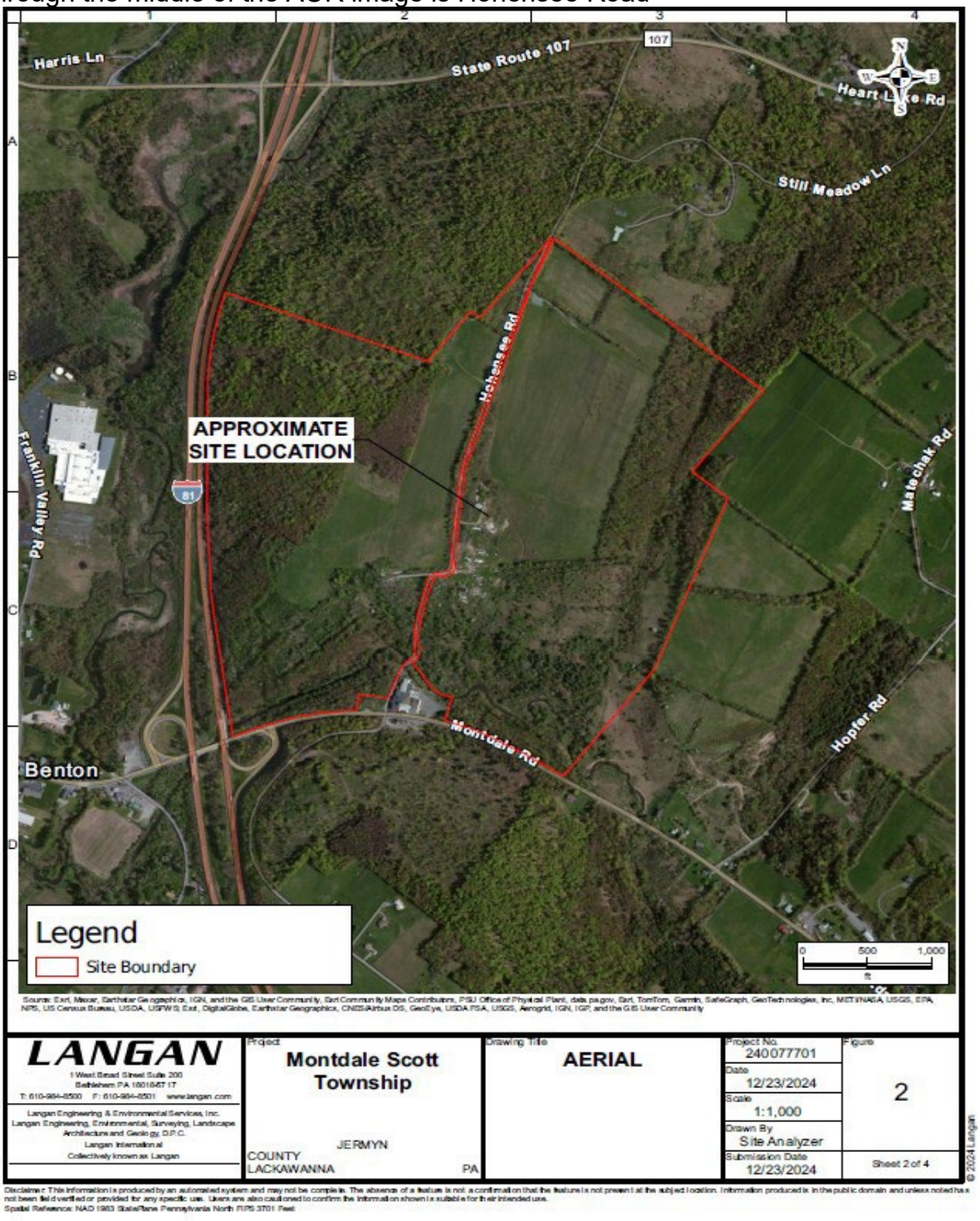


Figure 2-Project Area; area of review is a 275-acre area delineated in red. Thicker red line through the middle of the AOR image is Hohensee Road



1. SUMMARY OF CONCLUSIONS.

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

The listed waters on the entire area of review and the jurisdictional status are summarized in the Summary of Conclusions as follows. Be advised that these wetlands and waterbodies may be regulated as waters of the Commonwealth by the Pennsylvania Department of Environmental Protection.

a. The Corps has determined that Waterbodies D, F, G, I, O, V, EE, LL and MM are relatively permanent waters (RPW's) which are (a)(3) tributaries to a jurisdictional feature and are therefore jurisdictional under Section 404 of the Clean Water Act. The Corps has determined that Waterbodies B, E, K, M, Y, DD, are non-jurisdictional because they are non-relatively permanent waters (NRPW's) and do not have a continuous surface connection to any jurisdictional feature. The information provided with the AJD request in the Wetland Delineation and Stream Identification Report dated February 14, 2025, Core5 at North Scranton, Scott Township, Lackawanna County, Pennsylvania, submitted by Langan Engineering and Environmental, LLC supports the conclusions outlined below. In addition, the Corps conducted a site visit on September 12, 2025, with Mr. Jeremy Motsko from Langan Engineering and Environmental, LLC to inspect the delineated features that were identified as non-jurisdictional by Langan and, previously, by ARM Group, for which the jurisdictional status was less clear.

i. Waterbody B, non-tidal stream (approximate length = 2,090'; average bed width of 40"), non-jurisdictional

ii. Waterbody D, non-tidal stream (approximate length = 995'; average bed width of 29"), jurisdictional, Section 404

iii. Waterbody E, non-tidal stream (approximate length = 350'; average bed width of 60"), non-jurisdictional

iv. Waterbody F, non-tidal stream (approximate length = 22.5 miles; average bed width of 36 feet), jurisdictional, Section 404

v. Waterbody G, non-tidal stream (approximate length = 100'; average bed width of 32"), jurisdictional, Section 404

vi. Waterbody I, non-tidal stream (approximate length = 800’; average bed width of 31“), jurisdictional, Section 404

vii. Waterbody K, non-tidal stream (approximate length = 240’; average bed width of 60“), non-jurisdictional

viii. Waterbody M, non-tidal stream (approximate length = 60’; average bed width of 32“), non-jurisdictional

ix. Waterbody O, non-tidal stream (approximate length = 3,120’; average bed width of 29“), jurisdictional, Section 404

x. Waterbody V, non-tidal stream (approximate length = 600’; average bed width of 26“), jurisdictional, Section 404

xi. Waterbody Y, non-tidal stream (approximate length = 100’; average bed width of 20“), non-jurisdictional

xii. Waterbody CC, non-tidal stream (approximate length = 225’; average bed width of 57“), non-jurisdictional

xiii. Waterbody DD, non-tidal stream (approximate length = 75’; average bed width of 35“), non-jurisdictional

xiv. Waterbody EE, non-tidal stream (approximate length = 75’; average bed width of 31“), jurisdictional, Section 404

xv. Waterbody LL, non-tidal stream (approximate length = 270’; average bed width of 24“), jurisdictional, Section 404

xvi. Waterbody MM, non-tidal stream (approximate length = 500’; average bed width of 36“), jurisdictional, Section 404

The Corps has determined that Wetlands J, L, N, P, Q, S, T, U, Z, FF, II and JJ are (a)(4) adjacent wetlands because they have continuous surface connections to jurisdictional features and are therefore jurisdictional under Section 404 of the Clean Water Act. The Corps has determined that Wetlands A, C, H, R, W, X, AA, BB, GG, HH and KK are non-jurisdictional because they are isolated features that do not have any continuous surface connections by any tributaries to a jurisdictional feature, nor are they abutting a jurisdictional feature. The information provided with the AJD request in the

Wetland Delineation and Stream Identification Report dated February 14, 2025, Core5 at North Scranton, Scott Township, Lackawanna County, Pennsylvania, submitted by Langan Engineering and Environmental, LLC supports the conclusions below.

i. Wetland A, non-tidal wetland (1.37-acres), non-jurisdictional,

ii. Wetland C, non-tidal wetland (0.01-acres), non-jurisdictional,

iii. Wetland H, non-tidal wetland (0.04-acres), non-jurisdictional,

iv. Wetland J, non-tidal wetland (0.21-acres), jurisdictional, Section 404

v. Wetland L, non-tidal wetland (0.17-acres), jurisdictional, Section 404

vi. Wetland N, non-tidal wetland (2.16-acres), jurisdictional, Section 404

vii. Wetland P, non-tidal wetland (0.38-acres), jurisdictional, Section 404

viii. Wetland Q, non-tidal wetland (0.04-acres), jurisdictional, Section 404

ix. Wetland R, non-tidal wetland (0.27-acres), non-jurisdictional

x. Wetland S, non-tidal wetland (0.02-acres), jurisdictional, Section 404

xi. Wetland T, non-tidal wetland (0.16-acres), jurisdictional, Section 404

xii. Wetland U, non-tidal wetland (0.21-acres), jurisdictional, Section 404

xiii. Wetland W, non-tidal wetland (0.03-acres), non-jurisdictional

xiv. Wetland X, non-tidal wetland (0.03-acres), non-jurisdictional

xv. Wetland Z, non-tidal wetland (4.10-acres), jurisdictional, Section 404

xvi. Wetland AA, non-tidal wetland (0.03-acres), non-jurisdictional

xvii. Wetland BB, non-tidal wetland (0.05 acres), non-jurisdictional

xviii. Wetland FF, non-tidal wetland (0.22-acres), jurisdictional, Section 404

xix. Wetland GG, non-tidal wetland (0.10-acres), non-jurisdictional

xx. Wetland HH, non-tidal wetland (0.02-acres), non-jurisdictional

xxi. Wetland II, non-tidal wetland (0.29-acres), jurisdictional, Section 404

xxii. Wetland JJ, non-tidal wetland (0.03-acres), jurisdictional, Section 404

xxiii. Wetland KK, non-tidal wetland (<0.01-acres), non-jurisdictional

2. REFERENCES.

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

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

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

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

f. 1987 Corps of Engineers Wetland Delineation Manual

g. North Central and Northeast Regional Supplement

h. Field Indicators of Hydric Soils of the United States

i. 2020 National Wetland Plant List

j. The information provided in the request package, supplied by the consultant, included information from a USDA Natural Resources Conservation Service Soil Survey mapping, USGS topographic map, aerial imagery, USFWS National Wetland Inventory Map, a USGS National Hydrography Dataset, a USGS Watershed Boundary Dataset, the USGS StreamStats online database (StreamStats), FEMA Flood rate Insurance mapping, site maps, and wetland data sheets.

3. REVIEW AREA. The subject of this approved jurisdictional determination (AJD) is a 275-acre site located approximately 0.8 miles northeast of East Benton, in Scott Township, Lackawanna County, Pennsylvania (41.583964 N, -75.645917 W). The site

borders on the north bound land of U. S. Route 81 along the west side of the site, on Montdale Road along the southern end, and is bisected by Hohensee Road. The predominant land use of the area of review (AOR) is agricultural and forested land.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. The Susquehanna River is the nearest TNW to the subject project, a traditionally navigable Section 10 water.[6]

5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. The AOR drains south to the South Branch of Tunkhannock Creek which then flows approximately 2.5 miles west into Lackawanna Lake and outlets at the south end of the lake (Figure 1). At the south end of Lackawanna Lake, the South Branch of Tunkhannock Creek continues to flow west approximately 8 miles west to its confluence with Tunkhannock Creek, which then flows approximately 4.3 miles southwest to its confluence with the Susquehanna River, an (a)(1) traditionally navigable water.

6. SECTION 10 JURISDICTIONAL WATERS[7]: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.[8] N/A, there are no Section 10 waters in the review area.

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic

[6] This MFR should not be used to complete a new stand-alone TNW determination. A stand-alone TNW determination for a water that is not subject to Section 9 or 10 of the Rivers and Harbors Act of 1899 (RHA) 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.
[7] 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.
[8] This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.

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

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

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

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

e. Tributaries (a)(3):

The Corps has determined that there are nine streams that meet the definition of (a)(3) tributaries. They are listed in the 'SUMMARY OF CONCLUSIONS' above. Each tributary was determined to have an OHWM and defined bed and banks in the majority or throughout the length of stream channel. Although the lower portion of Stream B exhibits well-defined bed and banks in the lower portion of the channel at the southern portion of the site and was observed to contain flow immediately after precipitation events, long-term piezometer monitoring by Langan Engineering determined that it had no connection to groundwater input and was therefore deemed to be ephemeral. In addition, bed and banks are much less well-defined at the upper extent, becoming nearly indistinguishable from the adjacent landscape. Stream B only flows in direct response to precipitation events, is disconnected from groundwater inputs, and does not demonstrate hydrologic or biological indicators of intermittent or perennial streams, which receive seasonal groundwater discharge, and perennial streams, which maintain continuous flow year-round. The Corps inspected Stream B on September 12, 2025, to make an onsite determination of its jurisdictional status because of the potential to serve as a connection to a 1.37-acre wetland at the top of the feature (Wetland A). Because Stream B was found to be non-jurisdictional, Wetland A was, by extension, found to be non-jurisdictional because it did not have a continuous surface connection that directly abutted an (a)(2) impoundment and or (a)(3) tributary as required. The Corps did not inspect all streams listed in the 'SUMMARY OF CONCLUSIONS' but performed an office review of them in conjunction with pertinent supporting information.

f. Adjacent Wetlands (a)(4):

The Corps has determined that there are 12 wetlands in the AOR that are subject to Section 404 jurisdiction as they meet the definition of (a)(4) adjacent wetlands. They are listed in the 'SUMMARY OF CONCLUSIONS' above. The wetlands all have a continuous surface connection as they directly abut (a)(2) impoundments and or (a)(3) tributaries as required. Wetland determinations were made per the 1987 Corps of Engineers Wetland Delineation Manual and the Northeast and Northcentral Regional Supplement., The Corps did not inspect all wetlands listed in the 'SUMMARY OF CONCLUSIONS' but performed an office review of them in conjunction with pertinent supporting information.

g. Additional Waters (a)(5): [NA]

8. OTHER SUPPORTING INFORMATION.

a. The Corps conducted a site visit on 12 September 2025, with Mr. Jeremy Motsko, Project Scientist of Langan Engineering and Environmental, LLC.

b. USGS Topographic Maps, provided by requestor, AJD request package.

c. Aerial Images of Site, provided by requestor, AJD request package.

d. USFWS NWI Map, provided by requestor, AJD request package.

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