



**DEPARTMENT OF THE ARMY**  
U. S. ARMY CORPS OF ENGINEERS, BALTIMORE DISTRICT  
CARLISLE FIELD OFFICE  
401 EAST LOUTHER STREET, SUITE 205  
CARLISLE, PENNSYLVANIA 17013-2657

CENAB-OPR-R P 1100B

25 October 2024

**MEMORANDUM FOR RECORD**

**SUBJECT:** United States Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the “Revised Definition of ‘Waters of the United States’”; (88 FR 3004 (January 18, 2023) as amended by the “Revised Definition of ‘Waters of the United States’; Conforming” (8 September 2023) ,<sup>1</sup> NAB-2021-2019-P12 (Prologis Industrial Warehouse – Linglestown Road)

**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.<sup>2</sup> 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.<sup>3</sup>

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

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

---

<sup>1</sup> 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.

<sup>2</sup> 33 CFR 331.2.

<sup>3</sup> Regulatory Guidance Letter 05-02.

<sup>4</sup> 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.

CENAB-OPR-R P 1100B

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NAB-2021-2019-P12]

## 1. SUMMARY OF CONCLUSIONS.

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

- i. Wetland E/non-jurisdictional
- ii. Wetland F/non-jurisdictional
- iii. Wetland G/non-jurisdictional
- iv. Wetland J/non-jurisdictional

## 2. REFERENCES.

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

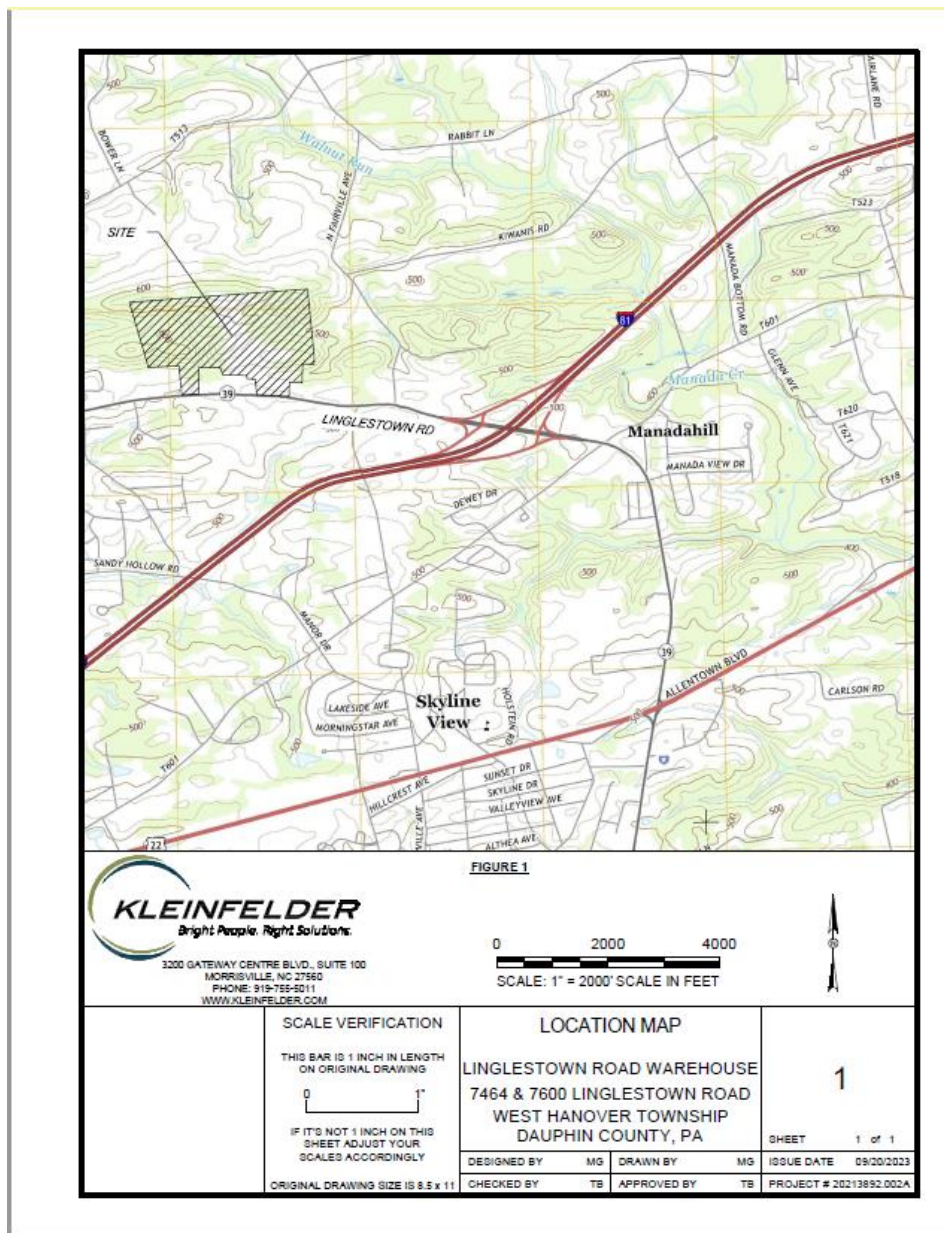
b. "Revised Definition of 'Waters of the United States'; Conforming" 88 FR 61964 (September 8, 2023))

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

3. REVIEW AREA. The review area is limited to the areas within the boundaries of wetlands E, F, G and J. The size of each wetland is: Wetland E 0.024 acre, Wetland F 0.073 acre, Wetland G 0.059 acre and Wetland J 0.032 acre for a total of 0.188 acre. The center of the review area is Latitude 40.35722222/ Longitude -76.74138889. The review area is located on the north side of Linglestown Road, at West Hanover Township, Dauphin County, Pennsylvania.

CENAB-OPR-R P 1100B

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), [NAB-2021-2019-P12]



4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. These wetlands have no surface connection to a Traditional Navigable Water.

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

6. SECTION 10 JURISDICTIONAL WATERS<sup>5</sup>: 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.<sup>6</sup> N/A

7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative 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): N/A
- f. Adjacent Wetlands (a)(4): N/A
- g. Additional Waters (a)(5): N/A

---

<sup>5</sup> 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.

<sup>6</sup> 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.

## 8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

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

Wetlands E, F, G and J do not have a surface connection to jurisdictional waters. This, lack of connection, was verified in the field during my field view of May 12, 2021. According to the current landowner, the wetlands were the result of grading and excavation of the landscape to allow for the storage of construction waste and fill and as a source of material (sand, stone, gravel) for the property owner.

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

a. During our May 12, 2021, field view, we utilized the March 2021 and later revised to June 2021, "Wetland and Watercourse Delineation Report", Prepared by Kleinfelder.

b. The Pennsylvania Wetland Resource Registry was used for the National wetland inventory and additional background information including aerial photos.

10. OTHER SUPPORTING INFORMATION. N/A

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



**LEGEND**

EXISTING BOUNDARY LINE		EXISTING GAS VALVE	
EXISTING ADJOINER BOUNDARY LINE		EXISTING GAS LINE	
EXISTING RIGHT-OF-WAY LINE		EXISTING ELECTRIC TRANSFORMER	
EXISTING CURB		EXISTING ELECTRIC MANHOLE	
EXISTING PAVEMENT		EXISTING COMMUNICATIONS MANHOLE	
EXISTING CONTOUR LINE		EXISTING CABLE TV BOX	
MUNICIPAL BOUNDARY LINE		EXISTING GAS METER	
EXISTING GRAVEL DRIVE		EXISTING GAS MANHOLE	
EXISTING VEGETATION		EXISTING TELEPHONE BOX	
EXISTING TREELINE		EXISTING WATER METER PIT	
EXISTING FENCE		EXISTING WATER MANHOLE	
EXISTING OVERHEAD ELECTRIC LINE		EXISTING WELL	
EXISTING UNDERGROUND ELECTRIC LINE		EXISTING LIGHT STANDARD	
EXISTING UNDERGROUND RAIL		EXISTING FEATURE TO BE REMOVED	
EXISTING GUIDE RAIL		AREA OF SLOPES 25% >	
EXISTING WETLANDS		PROJECT LAND AREA BOUNDARY	
EXISTING UTILITY POLE		EXISTING ASSUMED FLOODPLAIN	
EXISTING WATER VALVE			
EXISTING FIRE HYDRANT			
EXISTING WATER LINE			
EXISTING SANITARY SEWER MANHOLE			
EXISTING SANITARY SEWER LINE			
EXISTING STORM MANHOLE			
EXISTING STORM INLET			
EXISTING STORM PIPE			

**GENERAL NOTES**

- BOUNDARY AND TOPOGRAPHIC SURVEY INFORMATION DEPICTED ON THIS PLAN HAS BEEN DERIVED FROM A FIELD SURVEY BY BISON AERO PERFORMED IN APRIL 2019 & SEPTEMBER 2020.
- HORIZONTAL DATUM: NAD 83 (N.S.R.S. 2007 PA SOUTH ZONE GRID)
- VERTICAL DATUM: NAVD 88
- THE TOTAL AREA OF THE SUBJECT PROPERTY IS 104,226 ACRES.
- THE LOCATION OF UTILITIES AS SHOWN ON THIS PLAN IS BASED ON ABOVE GROUND INDICATIONS, FIELD OBSERVATIONS, RECORD DRAWINGS AND THE RESULT OF A PA ONE CALL. AS SUCH, THE ACTUAL LOCATION OF UNDERGROUND UTILITIES MAY VARY FROM THAT SHOWN ON THE PLAN.
- PRIOR TO ANY EARTHMOVING ACTIVITIES ON THE PROPERTY, IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO CONTACT ALL UTILITY COMPANIES IN ACCORDANCE WITH ACT 287 TO VERIFY THE EXACT LOCATION OF ALL UNDERGROUND UTILITIES.
- ONLY THOSE PROPERTY CORNERS THAT WERE FOUND OR SET AS PART OF THIS SURVEY ARE NOTED AS SUCH ON THE SURVEY PLAN.
- THE REGULATORY WETLANDS DEPICTED ON THIS PLAN HAVE BEEN DERIVED FROM WETLAND DELINEATION REPORTS PREPARED BY KLEINFELDER IN MARCH, 2021. WETLANDS E, F, G, & J WERE DEEMED NON-JURISDICTIONAL BY USACE.
- THERE ARE NO REGULATORY FLOODPLAIN AREAS LOCATED ON THE SUBJECT PROPERTY PER DAUPHIN COUNTY FLOOD INSURANCE RATE MAP NO. 42043C03850, DATED AUGUST 2, 2012.
- THE PLAN WAS COMPLETED WITHOUT THE BENEFIT OF A TITLE REPORT AND AS SUCH MAY BE SUBJECT TO UNKNOWN EASEMENTS, RIGHTS-OF-WAY, COVENANTS AND OTHER ENCUMBRANCES EITHER RECORDED OR UNRECORDED.
- THE EXISTING CHESTNUT TREE LOCATED ALONG THE NORTHERN PROPERTY BOUNDARY IS TO REMAIN. PRIOR TO CONSTRUCTION, FIELD MARK THE TREE'S DRIP LINE WITH FENCE OR SIMILAR. NO CONSTRUCTION SHALL OCCUR WITHIN DRIP LINE.

**SUMMARY OF LOT AREAS**

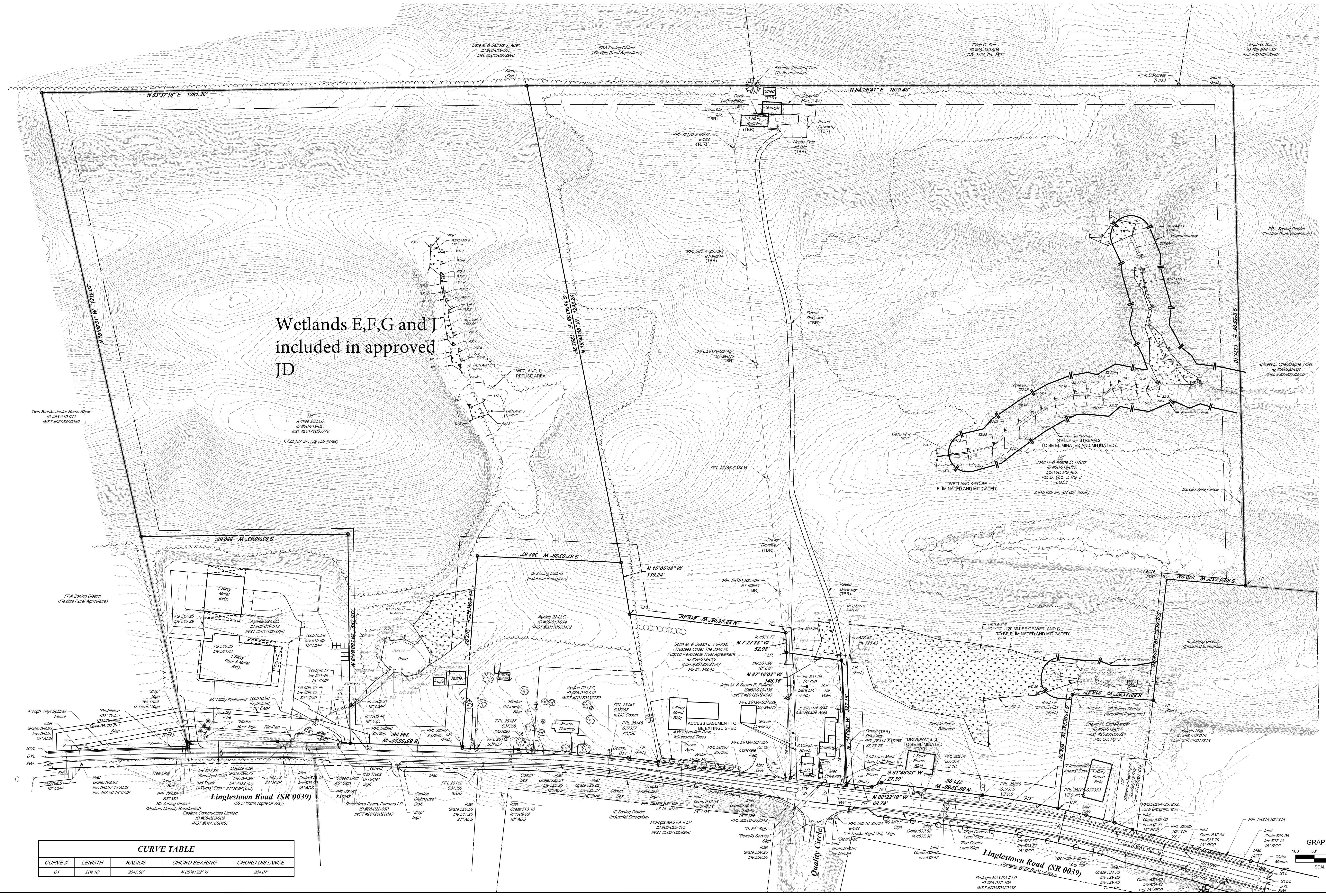
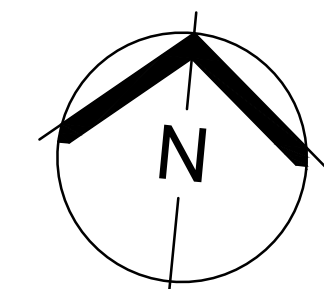
EXISTING LOT AREAS:		
N/F Aynlee 22 LLC	68-019-027	39,558 Acres
N/F John H. & Arlene D. Houck	68-019-015	64,667 Acres
<b>TOTAL =</b>		<b>104,225 Acres</b>
PROPOSED LOT AREA:		
PROPOSED LOT #1	4,330,360 SF.	99.411 Acres
RESIDUAL LOT #2	209,706 SF.	4.814 Acres
<b>TOTAL =</b>		<b>104,225 Acres</b>

**AVERAGE SLOPE CALCULATION**

S = AVERAGE PERCENT SLOPE OF A SITE (%)  
 I = CONTOUR INTERVAL  
 L = SUM OF THE LENGTH OF CONTOURS (FT.)  
 A = SITE DISTURBANCE AREA (ACRES)

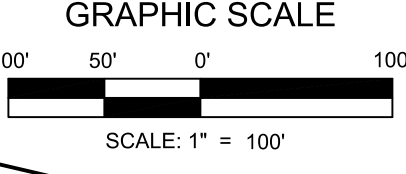
$$S = \frac{0.0023 \times I \times L}{A} = \frac{0.0023 \times 2 \times 276,431}{79} = 16\% < 25\%$$

THE EXISTING AVERAGE NATURAL SLOPE OF THE DEVELOPMENT LOT IS LESS THAN 25% AND THEREFORE DOES NOT QUALIFY FOR THE HSPDOP.



**CURVE TABLE**

CURVE #	LENGTH	RADIUS	CHORD BEARING	CHORD DISTANCE
CT	204.16'	2043.00'	N 85°41'22" W	204.07'



PROJ. MGR. -	TNS
DESIGN -	CWC
CADD -	TLR
CHECKED -	TNS
DATE	NOV 2021
REVISED PER CHAPTER 105 COMMENTS	NOV 2021
REVISED PER DEEP CHAPTER 102 AND CHAPTER 106 COMMENTS	NOV 2021
REVISED PER DEEP CHAPTER 102 COMMENTS	NOV 2021
REVISED PER DEEP CHAPTER 102 & 105 COMMENTS	NOV 2021
REVISED PER DEEP ORIGINAL SUBMISSION #1 COMMENTS	NOV 2021
REVISED PER TOWNSHIP COMMENTS	NOV 2021
REVISED PER TOWNSHIP COMMENTS	NOV 2021
REVISED PER TOWNSHIP COMMENTS	NOV 2021
DATE	NOV 2021

**ORIGINAL PROPERTY DESCRIPTION MAP FOR 7464 & 7600 LINGLESTOWN ROAD SITE FOR PROLOGIS WEST HANOVER TOWNSHIP, DAUPHIN COUNTY, PENNSYLVANIA**

**Snyder, Secary & Associates, LLC**  
 ENGINEERS • PLANNERS • DEVELOPMENT CONSULTANTS  
 HARRISBURG OFFICE  
 227 W. MARKET STREET  
 HARRISBURG, PA 17101  
 717.652.4881  
 www.snydersecary.com

**PROJECT NO.** 19-0249-002  
**DATE:** 6/3/2021  
**SCALE:** 1" = 100'  
**SHEET 2 of 70**  
**EX.2.0**



Wetlands  
E, F, G and  
J are the  
boundaries  
and limits  
of the  
Approved  
JD request.

N/F  
Aynlee 22 LLC,  
ID #68-019-027  
Inst. #20170033778

