



DEPARTMENT OF THE ARMY

U. S. ARMY ENGINEERS, BALTIMORE DISTRICT
ATTN: REGULATORY BRANCH
2 HOPKINS PLAZA
BALTIMORE, MARYLAND 21201-2930

CENAB-OPR-S

19 May 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ NAB-2025-00240-M52 (Piscataway Solar Energy Center/Pre-App)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*").

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,

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.

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.

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as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

a. The review area is comprised entirely of dry land (i.e., there are no waters such as streams, rivers, wetlands, lakes, ponds, tidal waters, ditches, and the like in the entire review area and there are no areas that have previously been determined to be jurisdictional under the Rivers and Harbors Act of 1899 in the review area). A site visit was conducted on 22 April 2025 and no aquatic resources, hydrophytic vegetation, hydric soils, or wetland hydrology indicators were observed within the area of review as shown on the plans (Attachment to Enclosure 2).

2. REFERENCES.

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

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

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

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

3. REVIEW AREA. The review area is approximately 54.7 acres located at 14251 Livingston Road, Clinton, Prince George's County, Maryland 20735. (Coordinates: Latitude 38.6949; Longitude -76.97722). See Attachment 1 for figure depicting the area of review boundary.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED.
N/A⁶

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.

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

6. SECTION 10 JURISDICTIONAL WATERS⁷: 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

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

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.

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8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁹ N/A

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

N/A

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

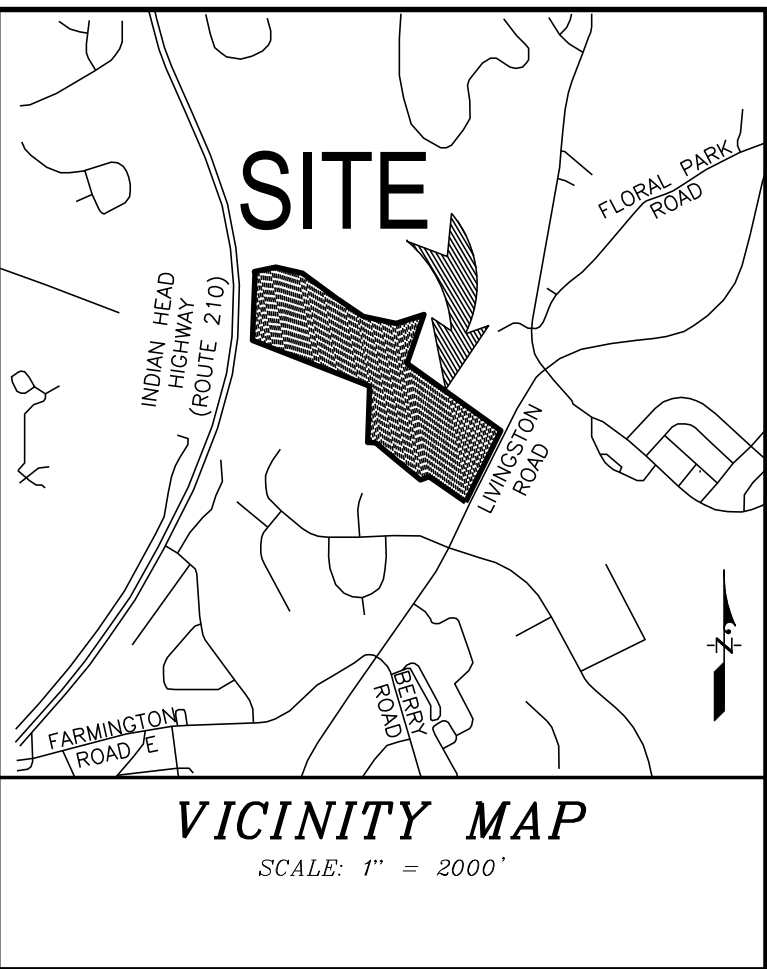
a. A site visit was conducted on 22 April 2025, with Mr. Hunter Michael from Atwell, LLC. and Ms. Gailynn Milligan and Mr. Ryan Din from the Maryland Department of Environment (MDE).

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.

⁹ 88 FR 3004 (January 18, 2023)

Area of Review for Corps
AJD (NAB-2025-00240)



LEGEND

	EXISTING CONTOUR
	PROPOSED CONTOUR
	EXISTING SPOT ELEVATION
	PROPOSED SPOT ELEVATION
	LIMIT OF DISTURBANCE
	EXISTING TREE LINE
	PROPOSED TREE LINE
	PROPOSED CHAIN LINK FENCE
	PROPOSED ACCESS ROAD

Site Statistics Table	
Site Statistics	Total ¹
Gross Tract Area	54.71 ac.
Existing 100-Year Floodplain	26.57 ac.
Existing CBCA	15.70 ac.
Existing Floodplain in the CBCA	13.08 ac.
Net Tract Area	25.52 ac.
Existing Woodland in the Floodplain	19.53 ac.
Existing Woodland Net Tract	3.78 ac.
Existing Woodland Total	23.31 ac.
Existing PMA	17.83 ac. (776,733.73 sf.)
Regulated Streams (linear feet of centerline)	6,013.06 lf.
Riparian (wooded) Buffer up to 300 feet wide ²	23.31 ac.

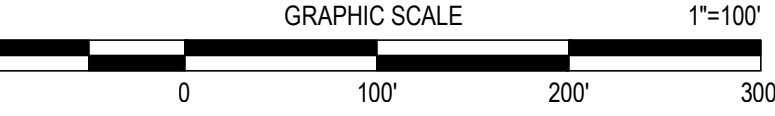
¹Figure area to be provided in acres rounded to the nearest 1/100th of an acre unless otherwise indicated.
²Acres of onsite woodland up to 300 feet measured from the stream centerline or from the top of bank on both side of all regulated streams

GENERAL INFORMATION TABLE		
LAYER CATEGORY	LAYER NAME	VALUE
Zone	Zoning (Zone)	AR
Zone	Aviation Policy Area (APA)	N/A
Administrative	Tax Grid (TMS)	142-C3
Administrative	WSSC Grid Sheet (20)	2185692
Administrative	Planning Area (Plan Area)	5
Administrative	Election District (ED)	5
Administrative	Councilmanic District (CD)	9
Administrative	General Plan 2002 Tier (Tier)	Developing
Administrative	General Plan Growth Policy (2005)	Established
Administrative	Police District	VII

SITE PLAN EXHIBIT
PARCEL 36


PISCATAWAY SOLAR ENERGY CENTER LLC PISCATAWAY SOLAR ENERGY CENTER II LLC

PISCATAWAY DISTRICT No. 05
PRINCE GEORGE'S COUNTY, MARYLAND



OWNER
PARKER FARMS II LTD LIABILITY CO
12720 PARKER LN
CLINTON, MD 20735
ATTN: BRIAN QUINLAN
PHONE: (301) 208-0153

APPLICANT
PISCATAWAY SOLAR ENERGY CENTER LLC
PISCATAWAY SOLAR ENERGY CENTER II LLC
12921 BUCKEYE DR
GAITHERSBURG, MD 20878
ATTN: BRIAN QUINLAN
PHONE: (301) 208-0153

PROFESSIONAL CERTIFICATION						 ATWELL 866.856.0500 www.atwell-pro.com 11721 BLOOMSBURY RD, SUITE 200 MITCHELLVILLE, MD 21117 301.430.2000			
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE PREPARED BY ME, AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MARYLAND.						DRAWN BY SAI		DESIGNED BY SAI	
						CHECKED BY DEM		RECORD NO. 24005155	
DATE		DESCRIPTION		BY		SCALE 1"=100'		DATE MARCH 2025	
K:\C3D-PROJ\24005155_PISCATAWAY SOLAR ENERGY CENTER\DWG\Engineering\REV-1.dwg, 4/21/2025 1:33:31 PM, pslorin									