



DEPARTMENT OF THE ARMY  
U.S. ARMY CORPS OF ENGINEERS, BALTIMORE DISTRICT  
2 HOPKINS PLAZA  
BALTIMORE, MARYLAND 21201

CENAB-OPR-N

15 August 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),<sup>1</sup> NAB-2025-60738-M43 (Stanford Trading VIII LLC/Stanford Industrial Park - Winchester Blvd/Industrial Park).<sup>2</sup>

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>3</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>4</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

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<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> 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.).

<sup>3</sup> 33 CFR 331.2.

<sup>4</sup> Regulatory Guidance Letter 05-02.

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Section 10 of the Rivers and Harbors Act of 1899 (RHA),<sup>5</sup> the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

## 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. Ephemeral Stream Channels A, B and C - 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)
- 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)
- e. 1987 Corps of Engineers Wetland Delineation Manual
- f. Eastern Mountains & Piedmont Regional Supplement
- g. Field Indicators of Hydric Soils of the United States
- h. 2020 National Wetland Plant List

## 3. REVIEW AREA.

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<sup>5</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.

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The subject of this approved jurisdictional determination is for a privately owned approximately 7-acre parcel located at 4850 Winchester Boulevard, Frederick, Frederick County, Maryland (39.348813, -77.504434). The site is in the Piedmont physiographic province of Maryland. The Corps conducted a field review of the site on October 22, 2024, and on April 4, 2025

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED. N/A.
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER. N/A.
6. SECTION 10 JURISDICTIONAL WATERS<sup>6</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>7</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.

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<sup>6</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>7</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.

- 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.

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).<sup>8</sup> 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).

The Corps received a request for an approved jurisdictional determination and No Permit Required (NPR) letter on 9 June 2025 for the subject site located at 4850 Winchester Boulevard, Frederick, Frederick County, Maryland (39.348813, -77.504434). The information provided in the request package supplied by ECS Mid-Atlantic, LLC included a photographic log and wetland determination data forms.

On October 22, 2024, and April 4, 2025, the Corps conducted site visits of the entire approximate 7-acre area of review as identified in the enclosed plan drawing dated April 2025. The review area encompasses primarily early to mid-stage successional fallow herbaceous fields, early successional riparian forest, and three ephemeral stream channels.

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<sup>8</sup> 88 FR 3004 (January 18, 2023)

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The three ephemeral stream channels are noted as Stream A (429 linear feet), Stream B (528 linear feet) and Stream C (97 linear feet) within the Corps Area of Review. Ephemeral Streams A and B originate at the north end of the area of review and continue through and off the review area to the south. Ephemeral Stream C originates at the north/east corner of the property until meeting Stream B. During both site visits the Corps walked the entirety of Streams A, B and C and none of the stream channels exhibited an ordinary high-water mark, nor relatively permanent flow. At both site visits, all stream channels were completely dry and exhibited no signs of groundwater discharge. Many areas of the ephemeral stream channels contained dense vegetation in the channel. All ephemeral streams (A, B, and C) that were identified and reviewed within the Corps Area of Review did not contain relatively permanent flow, thereby it does not meet the definition of an (a)(3) tributary and is not subject to CWA jurisdiction.

Based on field observations, supplemental information reviewed by the Corps, and in accordance with the protocol contained within the 1) Eastern Mountains and Piedmont Regional Supplement Version 2.0 and 2) 1987 Corps Delineation Manual, the Corps did not observe any areas containing hydrophytic vegetation, hydric soils, wetland hydrology indicators, or relative permanent waters within the above-mentioned area of review. The Corps has determined that the area of review includes only dry land and no jurisdictional waters of the United States.

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. USGS Topographic Map, accessed by Corps on August 8, 2025.
  - b. Aerial Image of Site accessed by Corps on August 8, 2025.
  - c. Photograph Log, provided by requestor, within the June 9, 2025, NPR request package. The Corps also took photographs (see below) at both site visits that were conducted.
  - d. USFWS NWI Map, accessed by Corps on August 8, 2025.

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- e. USGS NHD Map, accessed by Corps on August 8, 2025.
- f. Wetland Determination Data Forms dated February 19, 2025, provided by requestor, within the June 9, 2025, NPR request package.
- g. LIDAR Image of Site, accessed by Corps on August 8, 2025.

10. OTHER SUPPORTING INFORMATION. The following photographs were taken by the Corps during both site visits that were conducted.

Figure 1. Ephemeral Stream C during site visit conducted on October 22, 2025.



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Figure 2: Ephemeral Stream A during site visit conducted on October 22, 2024.



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Figure 3: Ephemeral Stream B during site visit conducted on October 22, 2024.



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Figure 4: Ephemeral Stream A at site visit conducted on April 4, 2025.



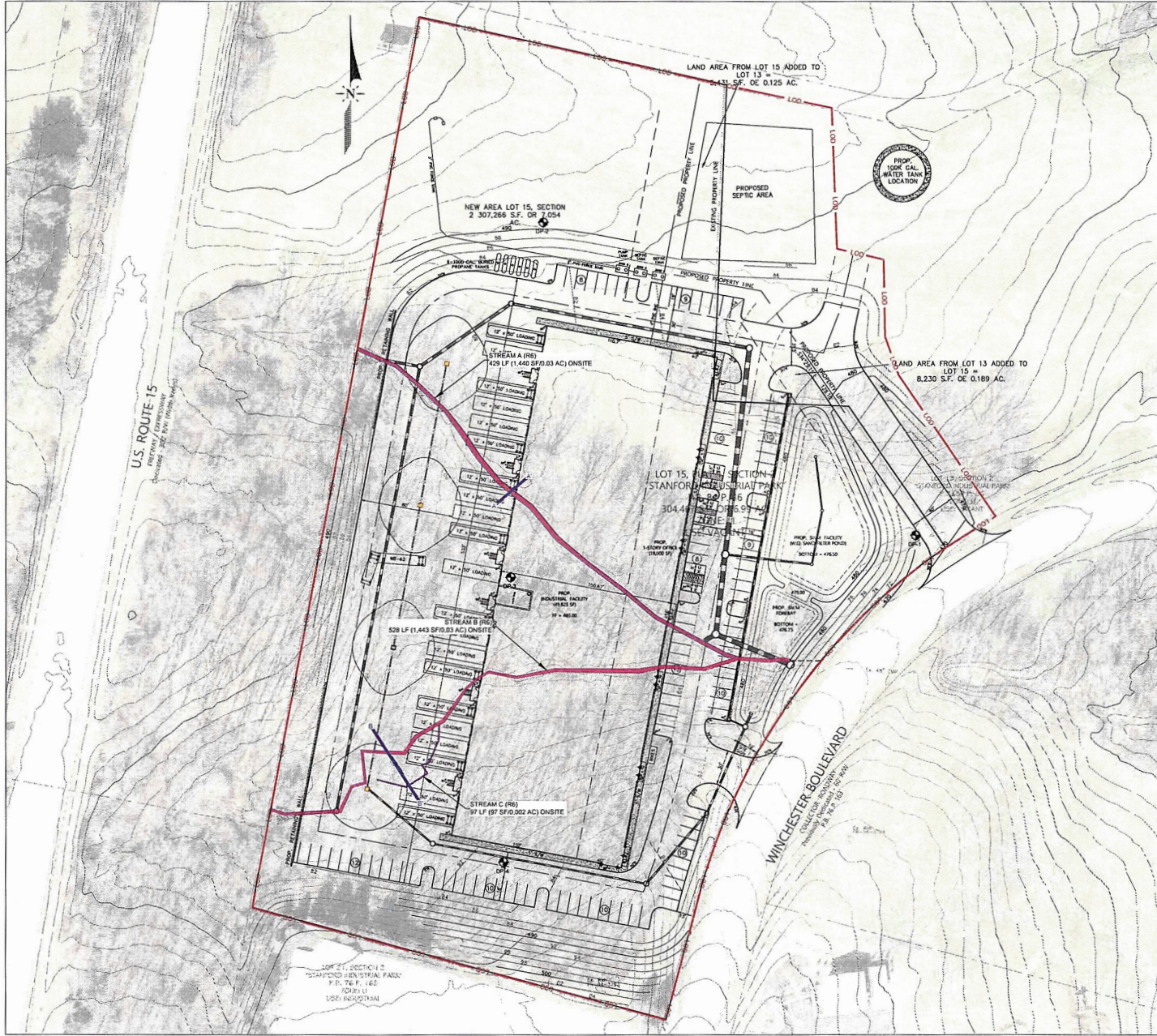
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Figure 5: Ephemeral Stream B at site visit conducted on April 4, 2025.



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**
- EPHEMERAL STREAM CHANNEL (R6)
  - PROPOSED PERMANENT IMPACT
  - APPROXIMATE WETLAND DATAPoint LOCATION
  - CULVERT
  - STUDY AREA
  - CROSS-SECTION
  - LIMITS OF DISTURBANCE = Corps Area of Review

Feature ID	Corps Classification	Linear Feet (LF)	Square Feet (SF)	Acres (AC)
Stream A	R6	429	1,440	0.03
Stream B	R6	528	1,443	0.03
Stream C	R6	97	97	0.002

\*WATER FEATURES WERE DELINEATED BY ECS ON FEBRUARY 19, 2025 AND LOCATED USING A SUB-METER ACCURACY GPS UNIT.  
 \*\*WATER FEATURES DEPICTED HEREIN WERE CONFIRMED BY THE MARYLAND DEPARTMENT OF THE ENVIRONMENT.

CELEBRATING  
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ECS-ENGINEERING, LLC  
13300 WOODBURN  
MARKET  
HARROW  
MD 21040  
(410) 384-8007



**STANFORD INDUSTRIAL PARK PROPERTY**  
**4850 WINCHESTER BOULEVARD**  
 FREDERICK COUNTY, MARYLAND

**WETLANDS & WATERS**  
**IMPACT MAP**  
 TERRA SOLUTIONS ENGINEERING, LLC

ECS REVISIONS

NO.	DATE	DESCRIPTION

ENGINEER: JMH     DRAFTING: WWB

SCALE: 1" = 40'

PROJECT NO.: 47-20768

SHEET: 1 OF 1

DATE: 25 APR 2025

