



**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): 1/6/2021
 ORM Number: NAB-2013-01593-P02
 Associated JDs: NAB-1999-00037-6 (Corporate Center) issued on December 3, 1998; NAB-2013-01593-P02 (Goodman Logistics Center)
 Review Area Location¹: State/Territory: Pennsylvania City: N/A County/Parish/Borough: York County
 Center Coordinates of Review Area: Latitude 40.207500 Longitude -76.881253

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.

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.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 2 (S2)	1,380 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Nearest downstream (a)(1) water is the Susquehanna River, a TNW and navigable waters of the U.S. Flow path is Stream 2 flows to UNT to the Yellow Breeches Creek flows to the Yellow Breeches Creek, flows to the Susquehanna River. Stream 2 has perennial flow as supported by the presence of benthic macroinvertebrates with annual life cycle and observed surface flow on several occasions including drier than normal conditions as documented by the APT. Existing 36” CMP and 60” RCP culverts within review area do not sever jurisdictional status of Stream 2.

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.



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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 1 (S1)	1,100	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Nearest downstream (a)(1) water is the Susquehanna River, a TNW and navigable waters of the U.S. Flow path is Stream 1 flows to Priest Run flows to the Yellow Breeches Creek flows to the Susquehanna River. Stream 1 has perennial flow as supported by the presence of benthic macroinvertebrates with annual life cycle, presence of finfish, and observed surface flow on several occasions including drier than normal conditions as documented by the APT. Existing 24" and 36" CMP culverts within review area do not sever jurisdictional status of Stream 1.
Stream 2 Trib. 1 (S2T1)	600	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Nearest downstream (a)(1) water is the Susquehanna River, a TNW and navigable waters of the U.S. Flow path is Stream 2 Trib 1 flows to UNT to the Yellow Breeches Creek flows to the Yellow Breeches Creek flows to the Susquehanna River. Stream 2 Trib 1 has intermittent flow as supported by the presence of benthic macroinvertebrates and observed surface flow on several occasions including drier than normal conditions as documented by the APT (2013-09-10). Existing 36" CMP and 60" RCP culverts within review area do not sever jurisdictional status of Stream 2 Trib 1.
Stream 2 Trib. 2 (S2T2)	500	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Nearest downstream (a)(1) water is the Susquehanna River, a TNW and navigable waters of the U.S. Flow path is Stream 2 Trib 2 flows to UNT to the Yellow Breeches Creek flows to the Yellow Breeches Creek flows to the Susquehanna River. Stream 2 Trib 2 has intermittent flow as supported by the presence of benthic macroinvertebrates cycle and observed surface flow on several occasions including drier than normal conditions as documented by the APT (2013-09-10). Existing 36" CMP and 60" RCP culverts within review area do not sever jurisdictional status of Stream 2 Trib 2.
Stream 1 Trib. 1 (S1T1)	475	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Nearest downstream (a)(1) water is the Susquehanna River, a TNW and navigable waters of the U.S. Flow path is Stream 1 Trib 1 flows to UNT to Priest Run flows to Priest Run flows to the Yellow Breeches Creek flows to the Susquehanna River. Stream 1 Trib 1 has intermittent flow as supported by the presence of benthic macroinvertebrates and observed surface flow on several occasions including drier than normal conditions as documented by the APT (2013-09-10). Existing 24" and 36" CMP culverts within review area do not sever jurisdictional status of Stream 1 Trib 1.

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.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W-1 (PEM/PSS)	0.99	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 1 directly abuts (bisects) both Stream 1 and Stream 1 Trib 1, both determined to be jurisdictional (a)(2) waters.
W-2 (PEM)	0.0184	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature.	Wetland 2 is separated from Stream 1 Trib 1 by a natural feature of approximately 20 feet in width. Wetland 2 is a groundwater discharge seep originating on a hillslope and contributes surface flow to Stream 1 Trib 1 in a typical year via a narrow non-jurisdictional channel.
W-3 (PEM)	0.0106	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland 3 directly abuts Stream 1 Trib 1, determined to be a jurisdictional (a)(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W-4	0.0429	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-5	0.0319	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-6	0.0135	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-7	0.0073	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-8	0.0211	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-9	0.0057	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.
W-10	0.0069	acre(s)	(b)(1) Non-adjacent wetland.	Small, isolated, wetland depression constructed/excavated in uplands incidental to the construction of a waste fill area associated with highway construction.

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.



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

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 3/ Stream 3 Trib. 1 (S3 and S3T1)	300	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream is intermittent at source, originating from a 36” CMP culvert under the I-83 on/off ramp. The intermittent reach flows for approximately 36 linear and then becomes a losing stream with flow sinking under deep sediment deposition for approximately 264 linear feet prior to exiting the review area via a 36” CMP culvert under the PA Turnpike. Stream does not contribute surface water flow directly to an (a)(1) water in a typical year. No surface flow in 264 linear foot reach during wetter than normal conditions as documented by field data and APT (2019-05-01).
Stream 1 Trib. 2 (S1T2)	190	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visits and submitted data from the applicant’s consultant.
Stream 1 Trib. 3 (S1T3)	90	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visits and submitted data from the applicant’s consultant.
Stream 1 Trib. 4 (S1T4)	85	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visits and submitted data from the applicant’s consultant.
Stream 2 Trib. 3 (S2T3)	50	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visits and submitted data from the applicant’s consultant.
Stream 2 Trib. 4 (S2T4)	105	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visits and submitted data from the applicant’s consultant.
Stream 2 Trib. 5 (S2T5)	100	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream channel exhibits OHWM but has no surface water flow in a typical year. Stream channels dry as documented by site visit and submitted data from the applicant’s consultant.

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.



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

Information submitted by, or on behalf of, the applicant/consultant: “Jurisdictional Waters & Wetlands Delineation Report”, prepared by Alpha Consulting Engineers, Inc., dated May 15, 2013. “Environmental Assessment, Fairview Crossroads Existing Conditions Characterization”, prepared by LandStudies, dated July 31, 2019. “Phase 1 Bog Turtle Habitat Survey Report for Goodman Logistics Center”, prepared by Charles Strunk Environmental Consultant, dated July 2013. “Wetland and Aquatic Resource Characterization for the Fairview Crossroads Development; Isolated Wetland, Herptology, Fish and Benthic Macroinvertebrate Survey Report”, prepared by Normandeau Associates, Inc., dated May 2019. “Hydrologic and Hydraulic Analysis, Fairview Crossroads Joint Permit Application” prepared by LandStudies, dated July 31, 2019. “Flood Study Report for Fairview Crossroads On-Site Mitigation” prepared by LandStudies dated May 2019. “Wetland and Stream Delineation Plan, Existing Conditions, Fairview Crossroads, Fairview Township, York County, PA” sheet 1 of 1, prepared by LandStudies, dated October 26, 2018, last revised on November 25, 2020.

This information is sufficient for purposes of this AJD.

Rationale: The information provided by the applicant’s consultants identified all wetlands and streams on-site including the lateral extent, provided information supporting the stream flow and wetland hydrology regime, and aerial and ground level photographs.

- Data sheets prepared by the Corps:
- Photographs: Aerial and Other: Ground level color photos dated April 26, 2013, provided by Alpha Consulting Engineers, Inc.; dated September 12, 2018, and May 2019, provided by landStudies; dated May 1, 2019, provided by Normandeau Associates, Inc. Historical aerial photographs dated September 22, 1937, and May 27, 1958, and 1970, source: Penn Pilot. Google Earth 1993-2016.
- Corps site visit(s) conducted on: September 10, 2013
- Previous Jurisdictional Determinations (AJDs or PJDs): NAB-2013-01593-P02 (Goodman Logistics Center) Preliminary JD issued on October 22, 2013.
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: York County, PA., 2002
- USFWS NWI maps: Lemoyne, PA., and Steelton, PA., 1987
- USGS topographic maps: Lemoyne, PA., 2016; and Steelton, PA., 2016.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA FIRM Map Panel 34, Map Number 42133C0034E, September 25, 2009

B. Typical year assessment(s): Two typical year assessments were conducted using the Antecedent Precipitation Tool (APT) to support data sources utilized. The APT reports were completed for “point-in-time” data sources, including the date of the Corps site visit on September 10, 2013, for purposes of evaluating a preliminary JD request; and also for May 1, 2019, representing the date of the Normadeau Associates, Inc., site visit to prepare their Wetland and Aquatic Resource Characterization for the Fairview Crossroads Development; Isolated Wetland, Herptology, Fish and Benthic Macroinvertebrate Survey Report. For the first APT report dated September 10, 2013, it was established that drier than normal



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

conditions existed in the southcentral PA region for the preceding 3 months, also that the precipitation deviated (drier) from the 30th to 70th percentile of precipitation for the 30 year normal range. This data was used to support the flow regime analysis for the stream channels subject to the Approved JD, in particular the intermittent streams which exhibited flow during this drier than normal period. Conversely, the APT report dated May 1, 2019, documented that wetter than normal conditions existed for the preceding 3 months, also that the precipitation deviated (wetter) from the 30th to 70th percentile of precipitation for the 30 year normal range. This data was utilized to support that the dry stream channels were ephemeral, as well as for Stream S3/S3T1 which did not exhibit surface flow within the lower 264 linear feet of the stream channel, thus not contributing surface water flow in a typical year to a downstream (a)(1) water.

C. Additional comments to support AJD: N/A