

STATE OF DELAWARE
DEPARTMENT OF NATURAL RESOURCES &
ENVIRONMENTAL CONTROL
DIVISION OF WATER
89 KINGS HIGHWAY
DOVER, DELAWARE 19901

WETLANDS & SUBAQUEOUS
LANDS SECTION

TELEPHONE (302) 739-9943
FAX (302) 739-6304

April 23, 2018

Passwaters Farm, LLC
C/o: Brad Koch
3201 Germantown Road, Suite 150
Fairfax, VA 22030

Jurisdictional Determination No.: JD-088/18
RE: Subaqueous Lands Jurisdictional Determination at
Passwaters Farm, LLC, Adjacent to Passwaters Farm Road, Bridgeville, DE 19933
Tax Parcel #: 131-14.00-44.14

Dear Mr. Koch:

On April 4, 2018 the Wetlands and Subaqueous Lands Section (WSLS) completed a subaqueous lands jurisdictional determination on a portion of Ake Ditch located on the above-referenced tax parcel. This jurisdictional determination was requested to determine the extent of State jurisdiction under the Subaqueous Lands Act, 7 Del. C., Chapter 72 and the associated "Regulations Governing the Use of Subaqueous Lands."

The jurisdictional determination included a review of 1937, 1954, 1982, 1992, 2005, and 2015 aerial photography and 1936, 1944, 1957, 1983, 1992 and 2014 USGS topographic quadrangle maps, and the 1915 War Department Topographic Map for the vicinity of the tax parcel, as well as a site visit.

An evaluation of aerial photography shows that the drainage feature was present in 1982, but not prior, indicating that the drainage feature was man-made and likely an agricultural drainage ditch given its location. An evaluation of the USGS topographic quadrangle maps supports this conclusion.

Jurisdiction was evaluated in the field on April 4, 2018 by WSLS staff. The methodology used was from the Delaware Stream Jurisdictional Determination Field Form Version 1.0, an adopted version of the North Carolina Division of Water Quality "Methodology for Identification of Intermittent and Perennial Streams and Their Origins, Version 4.11". The accompanying field form uses a scoring system to award points based upon the observation of geomorphic, hydrologic and biological stream features. Utilizing this form, this portion of Ake Ditch scored a 10, which indicates an ephemeral feature. A score of 19 or higher would be needed to provide evidence of a jurisdictional feature.

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During the site visit WSLS representatives noticed no water flow, but moist soils likely a result of minimal precipitation recently in the area. A review of USDA soil survey maps show Woodstown sandy loam (WddA) as the sole, predominate soil for this portion of Ake Ditch. WddA is a sandy loam soil that is noted to be moderately well drained. The Delaware Environmental Observing System recorded rainfall totaling 0.09 inches at the Bridgeville, DE-NGTS monitoring station from April 1 through 4. Due to observed field conditions and the information gathered during the desktop review, it has been determined that this portion of Ake Ditch is non-jurisdictional, and is an ephemeral ditch that collects and conveys water only during and shortly after rain events.

This determination applies only to the portion of Ake Ditch on the above-referenced tax parcel and shall not be construed as applying to any other water or wetland feature on or adjacent to this tax parcel.

A copy of the 2017 aerial photograph is enclosed and depicts the non-jurisdictional portion of the feature with red highlighter. The entire feature highlighted in red is considered non-jurisdictional. This letter does not exempt you from obtaining proper permits through the U.S. Army Corps of Engineers and other State or Government Agencies, as appropriate. This jurisdictional determination is valid and can be relied upon for a period of three (3) years from the date of this letter.

If you have any questions or concerns about this determination please feel free to call me at (302) 739-9943.

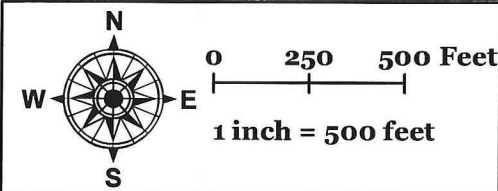
Sincerely,



Katie Esposito
Environmental Scientist
Wetlands and Subaqueous Lands Section

CC: Steven M. Smailer, Environmental Program Administrator, Division of Water
CC: Kyle Kowalczyk, Rauch, Inc.

Attachment: 2017 Aerial Photograph



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Adjacent to Passwaters Farm Road
Bridgeville, DE 19933
Tax Parcel: 131-14.00-44.14

 **Division of Water:
Wetlands &
Subaqueous
Lands Section**

Project No.:
JD-088/18

Date of JD:
4/4/2018

Environmental Scientist:
Katie Esposito

Map: 1 of 1
2017 Aerial Photography
*** Caution - Lines on this map are for guidance purposes only**