



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
P.O. BOX 1715  
BALTIMORE, MD 21203-1715

June 25, 2010

Operations Division

Mr. Stephen Geier  
VP, New Nuclear Site Projects  
UniStar Nuclear Energy  
750 East Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202

Dear Mr. Geier:

This is in response to your letter dated April 29, 2009 requesting a jurisdictional determination for an 882 acre site, identified as the Bell Bend Nuclear Power Plant Site, located in Salem Township, Luzerne County, Pennsylvania (Enclosure 1). The project has been identified as CENAB-OP-RPA-2008-01401-P13 (Bell Bend Nuclear Power Plant / JD).

Field inspections were conducted on September 30, 2009, October 7, 2009, November 4, 2009, and December 15, 2009 for the purpose of issuing a preliminary jurisdictional determination. Based on the information you have submitted and the field inspection, it has been determined that the plan(s) prepared by Normandeau Associates, entitled: "Bell Bend Nuclear Power Plant Site – U.S. Army Corps of Engineers Preliminary Jurisdictional Determination Mapping", sheet(s) 1 thru 8 of 13 and sheet(s) 10 thru 13 of 13, dated September 28, 2009, last revised December 22, 2009; and sheet 9 of 13, dated September 28, 2009, last revised June 11, 2010 (Enclosure 2), depict the extent of waters and/or wetlands within the defined Area of Review/Owner Controlled Area. These areas "may be" waters of the United States, including federally regulated wetlands, and may be regulated by this office pursuant to Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act of 1899.

This preliminary jurisdictional determination is based on the information included on the enclosed Preliminary Jurisdictional Determination Form (Enclosure 3) and can not be appealed. Please refer to the Notification of Administrative Appeal Options and Process and Request for Appeal form for your administrative appeal options (Enclosure 4). If you do not agree with the extent of waters or wetlands and this preliminary JD, you are hereby advised of your option to request and obtain an approved JD from this office at the address above. An approved JD is an official, written Corps determination stating the presence or absence of jurisdictional waters of the United States and identifies the limits of waters of the United States on a project site. An approved JD can be relied upon for a period of 5 years and can be appealed through the Corps' administrative appeal process set out at 33 CFR Part 331.

You are reminded that any grading or filling of waters of the United States, including wetlands, is subject to Department of the Army authorization. State and local authorizations may be required to conduct activities in these locations. Wetlands under the jurisdiction of the Pennsylvania Department of Environmental Protection (PADEP) may be located on the parcel. You may contact the PADEP for information regarding jurisdiction and permitting requirements at (570) 527-3660. In addition, the Interstate Land Sales Full Disclosure Act may require that prospective buyers be made aware, by the seller, of the Federal authority over any waters of the United States, including wetlands, being purchased.

In future correspondence and permit applications regarding this area of review please include the file number located in the first paragraph of this letter.

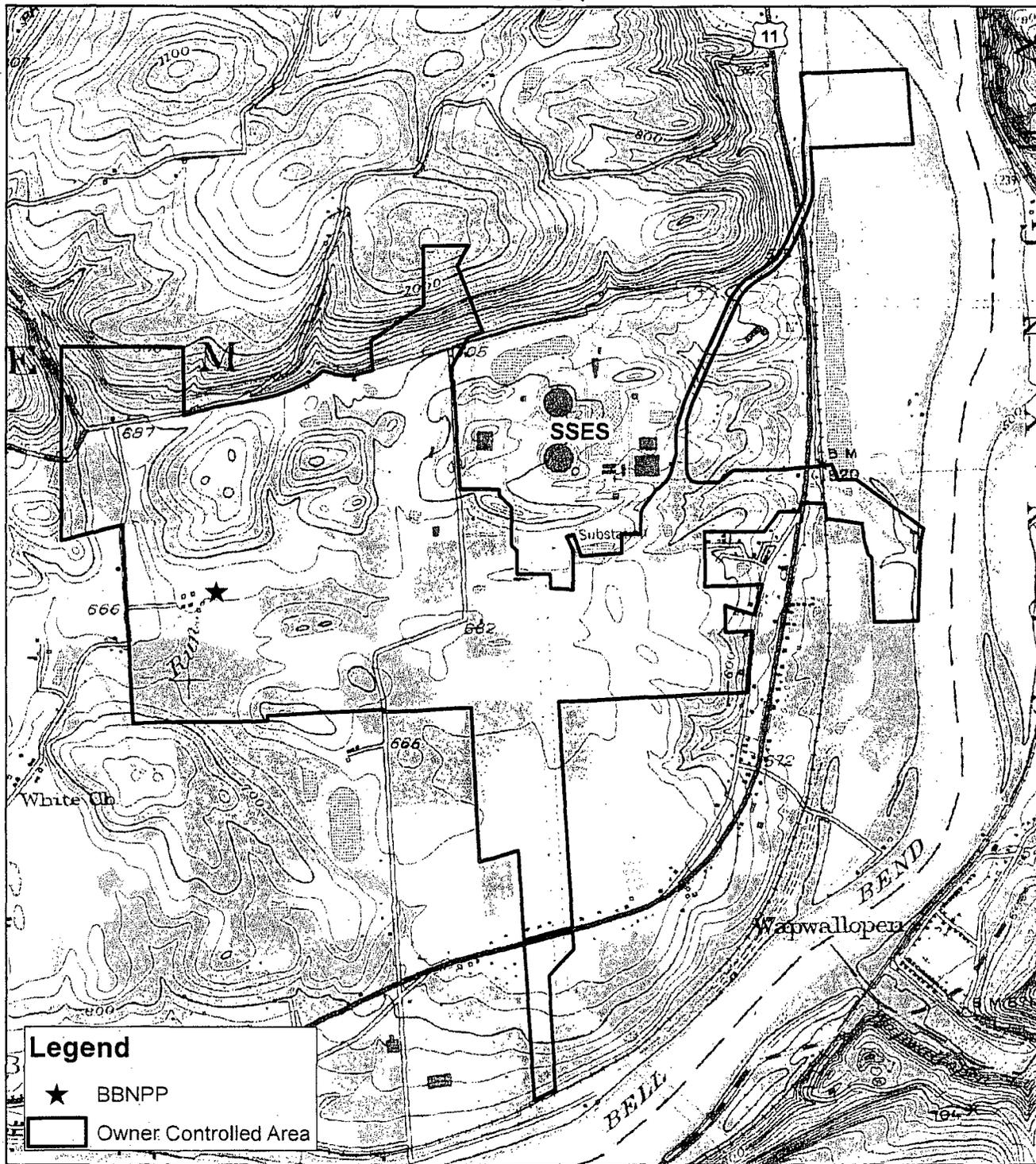
A copy of this letter is being furnished to the Nuclear Regulatory Commission (NRC); PPL Bell Bend, LLC; AREVA NP, Inc.; the PA Department of Environmental Protection – Northeast Regional Office; the U.S. Fish & Wildlife Service; the U.S. Environmental Protection Agency; the Susquehanna River Basin Commission (SRBC); Normandeau Associates; and the Luzerne County Conservation District, for informational purpose. If you have any questions concerning this matter, please call Mrs. Amy Elliott of this office at (814) 235-0573.

Sincerely,



Amy Elliott  
Biologist, Pennsylvania Section

Enclosures



**Legend**

- ★ BBNPP
- Owner Controlled Area

0.5 0.25 0 0.5 Miles

Figure 1.  
**Bell Bend NPP  
Site Location Map**



 **NORMANDEAU ASSOCIATES  
ENVIRONMENTAL CONSULTANTS**  
400 Old Reading Pike, Blag A, Suite 101, Stowe, PA 19464

date: 09/11/08  
project: 21159.002  
prepared by: s.sherman

checked by: k.maurice  
project name: Bell Bend  
file name: BBNPP\_Site\_USGS

Enclosure 3

**PRELIMINARY JURISDICTIONAL DETERMINATION FORM**

**BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR PRELIMINARY JURISDICTIONAL DETERMINATION (JD):** 25 June 2010

**B. NAME AND ADDRESS OF PERSON REQUESTING PRELIMINARY JD:**

Mr. Stephen Geier  
VP, New Nuclear Site Projects  
UniStar Nuclear Energy  
750 East Pratt Street, 16<sup>th</sup> Floor  
Baltimore, Maryland 21202

**C. DISTRICT OFFICE, FILE NAME, AND NUMBER:**

Baltimore / NAB-2008-01401-P13 (Bell Bend Nuclear Power Plant / Preliminary Jurisdictional Determination).

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:**

State: PA

County: Luzerne

City: Salem Township

Center coordinates of site: Lat. 41° 05' 25"N; Long. 76°09'50".

Universal Transverse Mercator:

Name of nearest waterbody: Walker Run, UNT to Walker Run, UNT to Lake Took-A-While, & North Branch Canal

Identify (estimate) amount of waters in the review area:

Non-wetland waters: 19,994 linear feet

Cowardin Class: Riverine

Stream Flow: Intermittent & Perennial

Wetlands: 142.47 acres

Cowardin Class: PFO, PSS, & PEM

Name of any water bodies on the site that have been identified as Section 10 waters:

Tidal: N/A

Non-Tidal: N/A

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date:

Field Determination. Date(s): September 30, 2009; October 7, 2009, November 4, 2009, & December 15, 2009.

1. The Corps of Engineers believes that there may be jurisdictional waters of the United States on the subject site, and the permit applicant or other affected party who requested this preliminary JD is hereby advised of his or her option to request and obtain an approved jurisdictional determination (JD) for that site. Nevertheless, the permit applicant or other person who requested this preliminary JD has declined to exercise the option to obtain an approved JD in this instance and at this time.

2. In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an approved JD for the activity, the permit applicant is hereby made aware of the following: (1) the permit applicant has elected to seek a permit authorization based on a preliminary JD, which does not make an official determination of jurisdictional waters; (2) that the applicant has the option to request an approved JD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an approved JD could possibly result in less compensatory mitigation being required or different special conditions; (3) that the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) that the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) that undertaking any activity in reliance upon the subject permit authorization without requesting an approved JD constitutes the applicant's acceptance of the use of the preliminary JD, but that either form of JD will be processed as soon as is practicable; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a preliminary JD constitutes agreement that all wetlands and other water bodies on the site affected in any way by that activity are jurisdictional waters of the United States, and precludes any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an approved JD or a preliminary JD, that JD will be processed as soon as is practicable. Further, an approved JD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331, and that in any administrative appeal, jurisdictional issues can be raised (see 33 C.F.R. 331.5(a)(2)). If, during that administrative appeal, it becomes necessary to make an official determination whether CWA jurisdiction exists over a site, or to provide an official delineation of jurisdictional waters on the site, the Corps will provide an approved JD to accomplish that result, as soon as is practicable. This preliminary JD finds that there "*may be*" waters of the United States on the subject project site, and identifies all aquatic features on the site that could be affected by the proposed activity, based on the following information:

**SUPPORTING DATA. Data reviewed for preliminary JD (check all that apply**

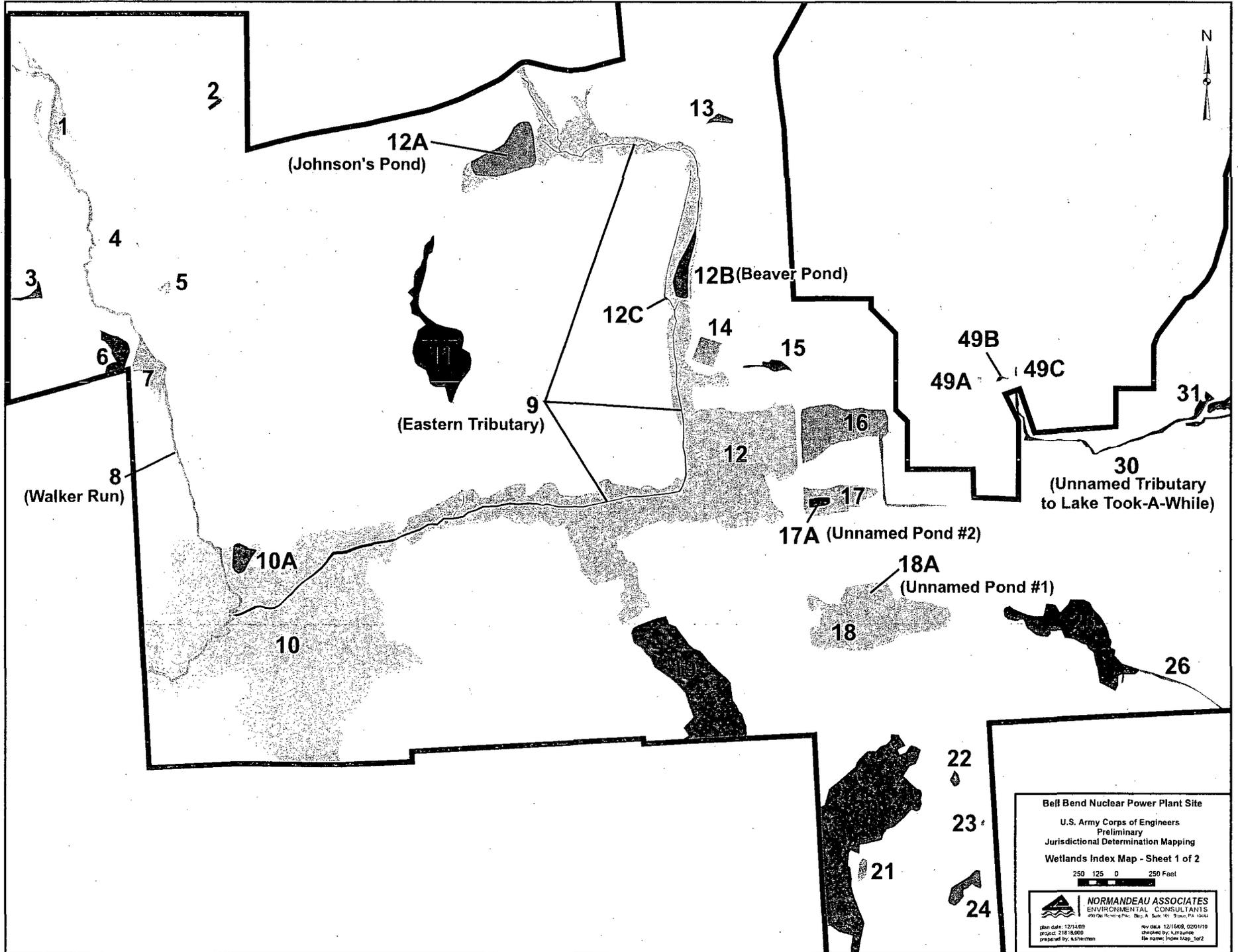
- checked items should be included in case file and, where checked and requested, appropriately reference sources below):

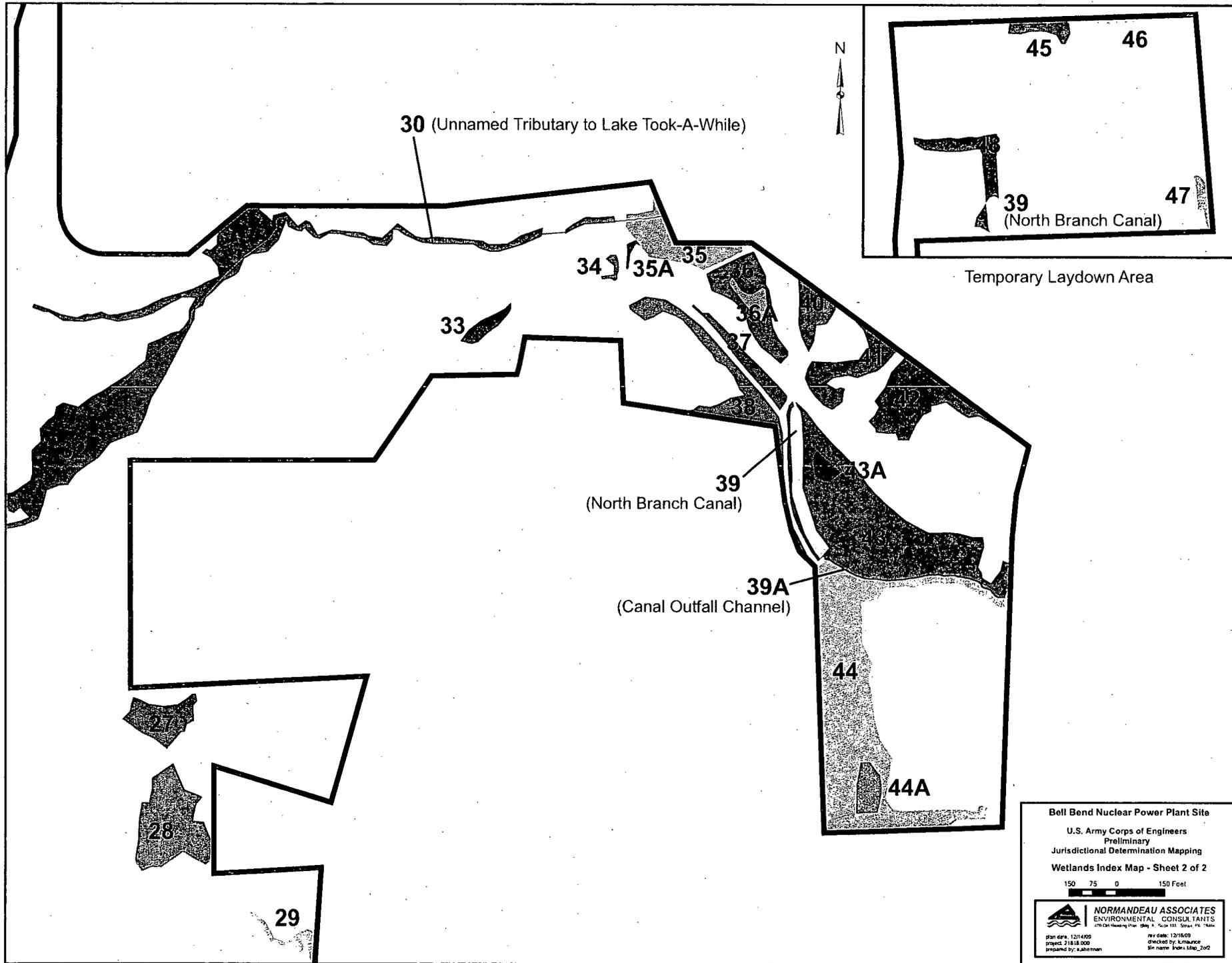
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: received 4/30/09, 3/02/10, & 6/17/10.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24000 Berwick, PA.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Luzerne County Soil Survey.
- National wetlands inventory map(s). Cite name: Berwick, PA.
- State/Local wetland inventory map(s):
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date):  
or  Other (Name & Date):
- Previous determination(s). File no. and date of response letter:
- Other information (please specify):

**IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.**

Amy Elliott 6/25/10  
Signature and date of  
Regulatory Project Manager  
(REQUIRED)

\_\_\_\_\_  
Signature and date of  
person requesting preliminary JD  
(REQUIRED, unless obtaining  
the signature is impracticable)





Map No.	Waters Name	Cowardin Code	Area (acres)	Stream Length Linear (ft)	Latitude (dd nad83)	Longitude (dd nad83)
1	2008-01401 Wetland # 1	PFO1	1.38		41.09347	-76.170841
2	2008-01401 Wetland # 2	PFO1	0.06		41.09370	-76.167041
3	2008-01401 Wetland # 3	PFO1	0.18		41.09038	-76.171454
4	2008-01401 Wetland # 4	PFO1	3.16		41.09132	-76.170176
5	2008-01401 Wetland # 5	PEM1	0.12		41.09043	-76.168316
6	2008-01401 Wetland # 6	PFO1	0.70		41.08928	-76.169451
7	2008-01401 Wetland # 7	PFO1	0.90		41.08895	-76.168672
8	2008-01401 Walker Run	R3UB		5,571	41.08820	-76.168283
9	2008-01401 Eastern Tributary	R3UB		7,816	41.08663	-76.156114
10	2008-01401 Wetland # 10	PFO1	40.95		41.08431	-76.165771
10A	2008-01401 Wetland # 10A	POW	0.47		41.08558	-76.166614
11	2008-01401 Wetland # 11	PFO1	3.63		41.08931	-76.161803
12	2008-01401 Wetland # 12	PFO1	34.68		41.08730	-76.155276
12A	2008-01401 Johnson's Pond	POW	2.03		41.09271	-76.159918
12B	2008-01401 Beaver Pond	POW	0.68		41.09045	-76.155954
12C	2008-01401 Wetland # 12C	POW	0.01		41.09010	-76.156335
13	2008-01401 Wetland # 13	PEM1	0.16		41.09328	-76.154936
14	2008-01401 Wetland # 14	PEM1	0.58		41.08914	-76.155365
15	2008-01401 Wetland # 15	PEM1	0.25		41.08888	-76.153749
16	2008-01401 Wetland # 16	PFO1	3.51		41.08781	-76.152153
17	2008-01401 Wetland # 17	PFO1	1.41		41.08646	-76.152195
17A	2008-01401 Unnamed Pond #2	POW	0.17		41.08640	-76.152711
18	2008-01401 Wetland # 18	PFO1	5.32		41.08426	-76.151564
18A	2008-01401 Unnamed Pond #1	POW	1.00		41.08465	-76.151622
19	2008-01401 Wetland # 19	PFO1	6.13		41.08331	-76.155829
20	2008-01401 Wetland # 20	PFO1	10.76		41.08052	-76.152383
21	2008-01401 Wetland # 21	PEM1	0.16		41.07979	-76.151859
22	2008-01401 Wetland # 22	PSS1	0.11		41.08137	-76.149586
23	2008-01401 Wetland # 23	PEM1	0.02		41.08059	-76.148944
24	2008-01401 Wetland # 24	PSS1	0.52		41.07944	-76.149478
25	2008-01401 Wetland # 25	PEM1	3.75		41.08411	-76.146490
26	2008-01401 Waters # 26	R3UB		629	41.08305	-76.144296
27	2008-01401 Wetland # 27	PEM1	0.52		41.08608	-76.141295
28	2008-01401 Wetland # 28	PEM1	1.22		41.08522	-76.141230

Map No.	Waters Name	Cowardin Code	Area (acres)	Stream Length Linear (ft)	Latitude (dd:nad83)	Longitude (dd:nad83)
29	2008-01401 Wetland # 29	PFO1	0.17		41.08416	-76.139725
30	2008-01401 Unnamed Tributary to Lake Took-A-White	R3UB		4,146	41.08992	-76.140516
31	2008-01401 Wetland # 31	PEM1	0.15		41.08798	-76.143555
32	2008-01401 Wetland # 32	PFO1	3.62		41.08872	-76.141860
33	2008-01401 Wetland # 33	PEM1	0.16		41.08943	-76.137498
34	2008-01401 Wetland # 34	PEM1	0.05		41.08995	-76.135935
35	2008-01401 Wetland # 35	PSS1	0.74		41.09013	-76.135368
35A	2008-01401 Waters # 35A	R3UB		102	41.09011	-76.135787
36	2008-01401 Wetland # 36	PFO1	0.74		41.08976	-76.134403
36A	2008-01401 Wetland # 36A	POW	0.15		41.08962	-76.134313
37	2008-01401 Wetland # 37	PEM1	0.31		41.08909	-76.134414
38	2008-01401 Wetland # 38	PFO1	0.91		41.08891	-76.134460
39	2008-01401 North Branch Canal	R3UB		1,115	41.08865	-76.133899
39A	2008-01401 Canal Outfall Channel	R3UB		615	41.08721	-76.132607
40	2008-01401 Wetland # 40	PFO1	0.36		41.08952	-76.133681
41	2008-01401 Wetland # 41	PFO1	0.62		41.08903	-76.133374
42	2008-01401 Wetland # 42	PFO1	1.00		41.08878	-76.132617
43	2008-01401 Wetland # 43	PEM1	3.30		41.08715	-76.133299
43A	2008-01401 Wetland # 43A	POW	0.12		41.08819	-76.133584
44	2008-01401 Wetland # 44	PFO1	3.81		41.08619	-76.133349
44A	2008-01401 Wetland # 44A	POW	0.26		41.08538	-76.133132
45	2008-01401 Wetland # 45	PFO1	0.42		41.10466	-76.134144
46	2008-01401 Wetland # 46	PFO1	0.21		41.10470	-76.132921
47	2008-01401 Wetland # 47	PFO1	0.26		41.10250	-76.131459
48	2008-01401 Wetland # 48	PFO1	0.96		41.10295	-76.134989
49A	2008-01401 Wetland # 49A	PEM1	0.02		41.08856	-76.148820
49B	2008-01401 Wetland # 49B	PEM1	0.04		41.08856	-76.148340
49C	2008-01401 Wetland # 49C	PEM1	0.02		41.08868	-76.147960
		<b>WETLANDS TOTAL</b>				
		<b>AREA (acres)</b>	<b>142.47</b>			
		<b>WATERCOURSES TOTAL LENGTH (l.ft.)</b>		<b>19,994</b>		

**Enclosure 4**

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL (NAO/NAP fact sheet & RFA form)**

Applicant: UniStar Nuclear Energy		File Number: 2008-01401-P13	Date: 6/25/10
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

**SECTION I -** The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://usace.army.mil/inet/functions/cw/cecwo/reg> or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the Baltimore District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations (JD) associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the Baltimore District Engineer. Your objections must be received by the Baltimore District Engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the Baltimore District Engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the Baltimore District Engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

**B: PROFFERED PERMIT:** You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the Baltimore District Engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. This form must be received by the North Atlantic Division Engineer within 60 days of the date of this notice with a copy furnished to the Baltimore District Engineer.

**C: PERMIT DENIAL:** You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. This form must be received by the North Atlantic Division Engineer within 60 days of the date of this notice with a copy furnished to the Baltimore District Engineer.

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. This form must be received by the North Atlantic Division Engineer within 60 days of the date of this notice with a copy furnished to the Baltimore District Engineer.

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

<p>If you have questions regarding this decision and/or the appeal process you may contact:</p> <p>Ms. Sandy Zelen  U.S. Army Corps of Engineers, Baltimore District  ATTN: CENAB-OP-R  Regulatory Branch, Baltimore District  Baltimore, MD 21203-1715  (410) 962-6028 or 3670</p>	<p>If you only have questions regarding the appeal process you may also contact:</p> <p>Mr. Michael G. Vissichelli  Administrative Appeals Review Officer  North Atlantic Division, Corps of Engineers Fort Hamilton  General Lee Avenue , Military Community Bldg. 301  Brooklyn, NY 11252-6700  Telephone: (718) 765-7163  Email: Michael.G.Vissichelli2@usace.army.mil</p>		
<p><b>RIGHT OF ENTRY:</b> Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.</p>			
<p>_____  Signature of appellant or agent.</p>	<table border="1"> <tr> <td data-bbox="806 499 1176 613">Date:</td> <td data-bbox="1176 499 1542 613">Telephone number:</td> </tr> </table>	Date:	Telephone number:
Date:	Telephone number:		