APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 8 June 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CELRP-RG-S 2020-00329

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: PA County/parish/borough: Allegheny City: Jefferson Hills
Center coordinates of site (lat/long in degree decimal format): Lat. 40.308860° **N**, Long. -79.911548° **W**.
Universal Transverse Mercator: 17S: 592491, 4462607
Name of nearest waterbody: UNT to Monongahela River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Monongahela River
Name of watershed or Hydrologic Unit Code (HUC): HUC12: 050200050807, Fallen Timber Run - Monongahela River
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 8 June 2022
☒ Field Determination. Date(s): 21 December 2021

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: n/a acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Pick List**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: **MON-1-S6, including adjacent wetlands, lacks a significant nexus to a downstream TNW**.

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 0.0473 **square miles**
Drainage area: 0.0473 **square miles**
Average annual rainfall: 45.9 inches
Average annual snowfall: 10.9 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: No.

Identify flow route to TNW[5]: MON-1-S6 is a first order tributary which begins at the top and every edge of its HUC12 adjacent to Clairton Road (which partially sits atop this watershed). This waterway (including its tributary, MON-1-

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

S509) drains approximately 30 acres of adjacent upland before flowing into a mining portal. Flow enters this portal and does not have surficial flow into a downstream TNW nor is it evident where/how flow exits or becomes part of any downstream TNWs.
Tributary stream order, if known: Tributary is a 1st order stream which does not flow into any other streams.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: the stream appears to be a natural feature which sits at the bottom elevation of a valley feature; however, this steam flows completely into a void and this area was previously strip-mined. The feature appears to be natural; however, it has been altered via past land uses. Additionally, a portion of this stream runs below a powerline right-of-way. Though woody vegetation is periodically cleared from this area, maintaining the ROW is not believed to have altered the existing stream's configuration or condition.

Tributary properties with respect to top of bank (estimate):
Average width: 1-3 feet
Average depth: 1 feet
Average side slopes: **3:1 .**

Primary tributary substrate composition (check all that apply):

☒ Silts	☒ Sands	☐ Concrete
☐ Cobbles	☒ Gravel	☐ Muck
☒ Bedrock	☐ Vegetation. Type/% cover: varies	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: the stream appears to be in a stable condition. Side slopes are gradual and the stream does not appear to be incised, eroding, or accreting excessively. At the bottom of its extent, the stream appears to hit harder rock and cascades into the mining portal.
Presence of run/riffle/pool complexes. Explain: n/a.
Tributary geometry: **Meandering**
Tributary gradient (approximate average slope): 7 %

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **20 (or greater)**
Describe flow regime: Flow appears to be ephemeral at the top but perennial for the majority of its reach.
Other information on duration and volume: n/a.

Surface flow is: **Discrete and confined.** Characteristics: stream channel appears to primarily flow as a perennial which then empties into a mining portal.

Subsurface flow: **Yes**. Explain findings: subsurface flow is present in as far as this stream empties its entire flow into a mining portal. Flow does not continue linearly in and out of this space; rather, flow contributes to a massive underground pool system which is primarily held by two mining complexes which sit on either side of the high elevation "ridge" which is Clairton Road. In a review of old mining plans from the 1930's, the underground elevation contours seem to trend the opposite direction in a southern direction - perhaps signalling that underground flow would travel south. This, however, is speculative. The mining complexes themselves have likely suffered internal subsidence throughout the century and there is no way to predict how water pools witin the complexes and what possible avenues this water has to escape and become surficial flow once again. It may be likely that this water pools underground and simply seeps into groundwater flow; however, this remains speculative.
☐ Dye (or other) test performed: given the nature of the underground pool, dye tests would not yield conclusive results. Dye would become dilluted in the pool before excreting in which ever location(s) that it does exit. The possible avenues are also unknonwn as flow may occur backwards on the otherside of the Clairton Road "hill" or downslope of the MON-1-S6 side.

Tributary has (check all that apply):
☒ Bed and banks
☐ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☒ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☒ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

☒ sediment deposition
☐ water staining
☐ other (list):
☒ multiple observed or predicted flow events
☐ abrupt change in plant community

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Stream flow appears to be perennial and originates at the top of the hillslope. Groundwater seeps at this location and forms this linear MON-1-S6 feature. Adjacent wetlands are also likely formed via groundwater seeps and contribute flows to this stream. Water appears clear and free of suspended particles.

Identify specific pollutants, if known: the waterway is located adjacent to a major roadway as well as within/adjacent a powerline ROW where machinery may infrequently operate (maintenance, mowing). Some polycarbon contaminates may enter the waterway via overland flow from the use of these areas by cars/machinery, though the actual amount and contribution is likely very minimal. It is not clear whether or not past strip-mining activities contributes contaminents to the wateray.

[7] Ibid.

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): >50 foot, shrubs/field - partially maintained when bisecting the powerline ROW. Buffer primarily consists of herbaceous plants.

☒ Wetland fringe. Characteristics: four wetlands (MON-1-W14/15/16/17) totaling 0.439 acres exist on the fringe of MON-1-S6. These are PEM wetlands.

☐ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: no macroinvertebrates or fish species were observed by the applicant nor during our field visit within the stream, though some macros were reported in adjacent wetlands by the applicant. Fringe wetland area may provide habitat for birds, such as redwing blackbirds, etc.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size:0.439 acres

Wetland type. Explain: describes four total PEM wetlands. No other fringe wetlands exist along this waterway.

Wetland quality. Explain:wetlands are fed by groundwater seeps or exist by the waterway's fringe. Wetlands are PEM and do not necessarily appear to be high quality given this area's past strip-mining.

Project wetlands cross or serve as state boundaries. Explain: n/a.

(b) General Flow Relationship with Non-TNW:

Flow is: **Perennial flow**. Explain: .

Surface flow is**: Discrete**

Characteristics: wetlands exist along the fringe of MON-1-S6 and are evidently directly adjacent to this RPW.

Subsurface flow: **No**. Explain findings: wetlands are directly adjacent and are connected via surficial connections.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **2-year or less** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: water appears clear and free of suspended particulate.

Identify specific pollutants, if known: some pollutants may flow overland from the operation of cars/machinery in adjacent areas. Additionally, this area was previously strip-mined which may influence water quality (i.e. pH, etc.).

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): >50 foot buffer of herbeacous plants on most sides of aquatic resources.

☒ Vegetation type/percent cover. Explain: 90-100.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: wetlands appear to support habitat for some macroinvertebrates, amphibians, and/or birds (such as redwing blackbirds, etc.).

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **4**

Approximately (0.439) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
MON-1-W14	0.079101 acres	Y	
MON-1-W15	0.017871 acres	Y	
MON-1-W16	0.325511 acres	Y	
MON-1-W17	0.016327 acres	Y	

Summarize overall biological, chemical and physical functions being performed: Wetlands which are adjacent to MON-1-S6 provide functions and services to this waterway. Wetlands provide habitat for certain biota; provide water storage and attenuation during high flows; water quality benefits, etc.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: Though this section does aptly describe the situation - the Corps is using this section to describe the "Findings for an RPW, including its adjacent wetlands, which are *isolated* or do not otherwise demonstrate a signficant nexus to a downstream TNW." Quite simply, MON-1-S6, including its adjacent wetland and tributaries, flows directly into an abandoned mining portal. These waters are then contributed to the greater pool of water which sits below ground. This water does not evidently flow out of the downslope area where streams form again. Underground mining maps indicate that multiple mining complexes sit below ground and that it is likely that water would actually flow south rather than north once it is below ground. It is largely unknown how water flows in these century-old mining passages. For this reason, the Corps cannot make a significant nexus determination tracing these waters to a downstream TNW. Thus, the Corps has determined that these waters are isolated and non-jurisdictional features. The lack of any obvious connection(s) to a downstream TNW also extends to the lack of any physical, chemical, or biological nexus.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
     - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

[8]See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **MON-1-S6, including adjacent wetlands, do not appear to contain a discrete physical, chemcial, or biological nexus to any downstream TNW given reasons stated in Section C.1. above. Given the stream and its adjacent wetlands are absent any significant nexus to downstream TNWs, it has been determined that MON-1-S6, including its adjacent wetlands, are not a jurisdictional waters.**
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☒ Non-wetland waters (i.e., rivers, streams): **1,374** linear feet, **1-3** width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 0.439 acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall 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: 53A1 Mon Fayette GIS Data Dashboard.
☐ 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: .

[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

☒ 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: Glassport 2019.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☒ National wetlands inventory map(s). Cite name: USFWS "Wetlands Mapper".
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth: Nov. 2021.
or ☒ Other (Name & Date): Corps on-site photographs Dec. 2021.
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):Pennsylvania Mine Map Atlas. https://www.minemaps.psu.edu/. Accessed 9-10 June 2022.

B. ADDITIONAL COMMENTS TO SUPPORT JD: No flowing waters were observed during the 21 December 2021 field visit. The Antecedent Precipitation Tool (APT) idicated that this field visit occurred during a period which was "drier than normal" for the wet season. Minimal rainfall occurred the week before the site visit. Given the small ranage of the 30-year rolling normal range of precipitation, this day's site visit fell within a drier than normal range; however, it was not a drought condition and was only slightly under this 30-year average. This deviation was about 0.5 inch reduction in average rainfall. Given the observations of the stream condition and other evidence which led the Corps to conclude this waterway's minimal downstream contribution, the "drier than normal" APT rating does not have any overbearing implications on our analysis. The Corps believes that MON-1-S6 does not have a signficant nexus to a downstream TNW.

APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 13 June 2022

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CELRP-RG-S 2020-00329

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: PA County/parish/borough: Allegheny City: Jefferson Hills
Center coordinates of site (lat/long in degree decimal format): Lat. 40.308092° **N**, Long. -79.911294° **W**.
Universal Transverse Mercator: 17S: 592514, 4462522ff
Name of nearest waterbody: UNT to Monongahela River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Monongahela River
Name of watershed or Hydrologic Unit Code (HUC): HUC12: 050200050807, Fallen Timber Run - Monongahela River
☒ Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
☐ Check if other sites (e.g., offsite mitigation sites, disposal sites, etc…) are associated with this action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☒ Office (Desk) Determination. Date: 13 June 2022
☒ Field Determination. Date(s): 21 December 2021

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** "*navigable waters of the U.S.*" within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: linear feet: width (ft) and/or acres.
      Wetlands: n/a acres.

   c. **Limits (boundaries) of jurisdiction** based on: **Pick List**
      Elevation of established OHWM (if known): .

2. **Non-regulated waters/wetlands (check if applicable):**[3]
   ☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain: **MON-1-S509, including adjacent wetlands, lacks a significant nexus to a downstream TNW**.

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

1. Characteristics of non-TNWs that flow directly or indirectly into TNW

(i) General Area Conditions:
Watershed size: 0.0008 **square miles**
Drainage area: 0.0008 **square miles**
Average annual rainfall: 45.9 inches
Average annual snowfall: 10.9 inches

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **Pick List** tributaries before entering TNW.

Project waters are **Pick List** river miles from TNW.
Project waters are **Pick List** river miles from RPW.
Project waters are **1 (or less)** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: No.

Identify flow route to TNW[5]: MON-1-S509 is a first order tributary which begins at the top and every edge of its HUC12 adjacent to Clairton Road (which partially sits atop this watershed). This waterway, for its entire 94-foot ephemeral

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

reach, flows into MON-1-S6 before flowing into a mining portal. Flow enters this portal and does not have surficial flow into a downstream TNW nor is it evident where/how flow exits or becomes part of any downstream TNWs.
Tributary stream order, if known: Tributary is 1st order.

(b) General Tributary Characteristics (check all that apply):
Tributary is: ☒ Natural
☐ Artificial (man-made). Explain: .
☒ Manipulated (man-altered). Explain: the stream appears to be a natural feature which sits at the bottom elevation of a valley feature; however, this steam flows completely into a void and this area was previously strip-mined. The feature appears to be natural; however, it has been altered via past land uses. The top of the stream is adjacent to a major roadway and likely transports ditch flow from storm events.

Tributary properties with respect to top of bank (estimate):
Average width: 1-2 feet
Average depth: <1 feet
Average side slopes: **2:1.**

Primary tributary substrate composition (check all that apply):

☐ Silts	☒ Sands	☐ Concrete
☒ Cobbles	☒ Gravel	☐ Muck
☐ Bedrock	☐ Vegetation. Type/% cover: varies	
☐ Other. Explain: .		

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: the stream appears to be in a stable condition. Side slopes are gradual and the stream does not appear to be incised, eroding, or accreting excessively. At the bottom of its extent, the stream appears to hit harder rock and cascades into the mining portal.
Presence of run/riffle/pool complexes. Explain: n/a.
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): >10 %

(c) Flow:
Tributary provides for: **Ephemeral flow**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: flow appears to be ephemeral throughout its reach.
Other information on duration and volume: n/a.

Surface flow is: **Discrete and confined.** Characteristics: stream channel appears to primarily flow as ephemeral, then enters a perennial water before emptying into a mining portal.

Subsurface flow: **Yes**. Explain findings: subsurface flow is present in as far as this stream empties its entire flow into a mining portal. Flow does not continue linearly in and out of this space; rather, flow contributes to a massive underground pool system which is primarily held by two mining complexes which sit on either side of the high elevation "ridge" which is Clairton Road. In a review of old mining plans from the 1930's, the underground elevation contours seem to trend the opposite direction in a southern direction - perhaps signalling that underground flow would travel south. This, however, is speculative. The mining complexes themselves have likely suffered internal subsidence throughout the century and there is no way to predict how water pools witin the complexes and what possible avenues this water has to escape and become surficial flow once again. It may be likely that this water pools underground and simply seeps into groundwater flow; however, this remains speculative.
☐ Dye (or other) test performed: given the nature of the underground pool, dye tests would not yield conclusive results. Dye would become dilluted in the pool before excreting in which ever location(s) that it does exit. The possible avenues are also unknown as flow may occur backwards on the otherside of the Clairton Road "hill" or downslope of the waterway side.

Tributary has (check all that apply):
☒ Bed and banks
☐ OHWM[6] (check all indicators that apply):

☒ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☒ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☒ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☒ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

[6]A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☒ High Tide Line indicated by:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☒ Mean High Water Mark indicated by:
- ☐ survey to available datum;
- ☐ physical markings;
- ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).

Explain: Stream flow is ephemeral and appears to only flow in response to storm events. Flow from this stream enters MON-1-S6, a perennial waterway. The chemcial characteristics of this waterway are primarily a function of rainfall and any potential pollutant runoff from the adjacent roadway.

Identify specific pollutants, if known: the waterway is also adjacent to a roadway. The waterway has some potential to accept pollutant runoff from the road associated with the operation of the machinery on the road. The area was previously subject strip-mining and may contribute some contaminants from this disturbance as well.

[7] Ibid.

(iv) Biological Characteristics. Channel supports (check all that apply):

☒ Riparian corridor. Characteristics (type, average width): 0 to >50 foot buffer exists. Primarily open herbaceous fields, but the western fringe contains some riparian forested areas. Waterway also abutts a public road.

☒ Wetland fringe. Characteristics: one PEM wetland (MON-1-W14) totaling 0.079 acres exist on the fringe of MON-1-S509.

☐ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: no macroinvertebrates or fish species were observed by the applicant nor during our field visit within the stream, though some macros were reported in adjacent wetlands by the applicant. Fringe wetland area may provide habitat for birds, such as redwing blackbirds, etc.

2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size:0.079 acres

Wetland type. Explain: one fringe PEM wetland (also previously described in the AJD form for MON-1-S6).

Wetland quality. Explain: wetland is fed via groundwater seep. The applicant described this area as an outlet location for a potential artesian well. Water quality may be impacted via previous mining activities which have occurred at the project site and in the vicinity.

Project wetlands cross or serve as state boundaries. Explain: n/a.

(b) General Flow Relationship with Non-TNW:

Flow is: **Ephemeral flow**. Explain: .

Surface flow is**: Discrete**

Characteristics: one wetland exists on the fringe of MON-1-S509.

Subsurface flow: **No**. Explain findings: wetland is directly adjacent and are connected via surficial connections.

☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting

☐ Not directly abutting

☐ Discrete wetland hydrologic connection. Explain: .

☐ Ecological connection. Explain: .

☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **1 (or less)** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **2-year or less** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: water appears clear and free of suspended particulate.

Identify specific pollutants, if known: some pollutants may flow overland from the operation of cars/machinery in adjacent areas. Additionally, this area was previously strip-mined which may influence water quality (i.e. pH, etc.).

(iii) Biological Characteristics. Wetland supports (check all that apply):

☒ Riparian buffer. Characteristics (type, average width): 1 to >50 foot buffer of herbeacous plants on most sides of aquatic resources.

☒ Vegetation type/percent cover. Explain: 90-100.

☒ Habitat for:

☐ Federally Listed species. Explain findings: .

☐ Fish/spawn areas. Explain findings: .

☐ Other environmentally-sensitive species. Explain findings: .

☒ Aquatic/wildlife diversity. Explain findings: wetlands appear to support habitat for some macroinvertebrates, amphibians, and/or birds (such as redwing blackbirds, etc.).

3. Characteristics of all wetlands adjacent to the tributary (if any)

All wetland(s) being considered in the cumulative analysis: **1**

Approximately (0.079) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
MON-1-W14	0.079101 acres	Y	

Summarize overall biological, chemical and physical functions being performed: Wetland which is adjacent to MON-1-S509 provide functions and services to this waterway. Wetlands provide habitat for certain biota; provide water storage and attenuation during high flows; water quality benefits, etc.

C. SIGNIFICANT NEXUS DETERMINATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: Though this section does aptly describe the situation - the Corps is using this section to describe the "Findings for an RPW, including its adjacent wetlands, which are *isolated* or do not otherwise demonstrate a signficant nexus to a downstream TNW." Quite simply, MON-1-S509, including its adjacent wetland, flows indirectly (via MON-1-S6) into an abandoned mining portal. These waters are then contributed to the greater pool of water which sits below ground. This water does not evidently flow out of the downslope area where streams form again. Underground mining maps indicate that multiple mining complexes sit below ground and that it is likely that water would actually flow south rather than north once it is below ground. It is largely unknown how water flows in these century-old mining passages. For this reason, the Corps cannot make a significant nexus determination tracing these waters to a downstream TNW. Thus, the Corps has determined that these waters are isolated and non-jurisdictional features. The lack of any obvious connection(s) to a downstream TNW also extends to the lack of any physical, chemical, or biological nexus.

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

   Provide estimates for jurisdictional waters in the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
   - ☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   - ☐ Tributary waters: linear feet width (ft).
   - ☐ Other non-wetland waters: acres.
     Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .
   - ☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
   - ☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

   Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
   - ☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

   Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
   As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
   - ☐ Demonstrate that impoundment was created from "waters of the U.S.," or
   - ☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
   - ☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

[8] See Footnote # 3.
[9] To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☒ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: **MON-1-S509, including adjacent wetland, do not appear to contain a discrete physical, chemcial, or biological nexus to any downstream TNW given reasons stated in Section C.1. above. Given the stream and its adjacent wetlands are absent any significant nexus to downstream TNWs, it has been determined that MON-1-S509, including its adjacent wetlands, are not a jurisdictional waters.**
☐ Other: (explain, if not covered above): .

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☒ Non-wetland waters (i.e., rivers, streams): **94** linear feet, **1-2** width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☒ Wetlands: 0.079 acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall 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: 53A1 Mon Fayette GIS Data Dashboard.
☐ 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.

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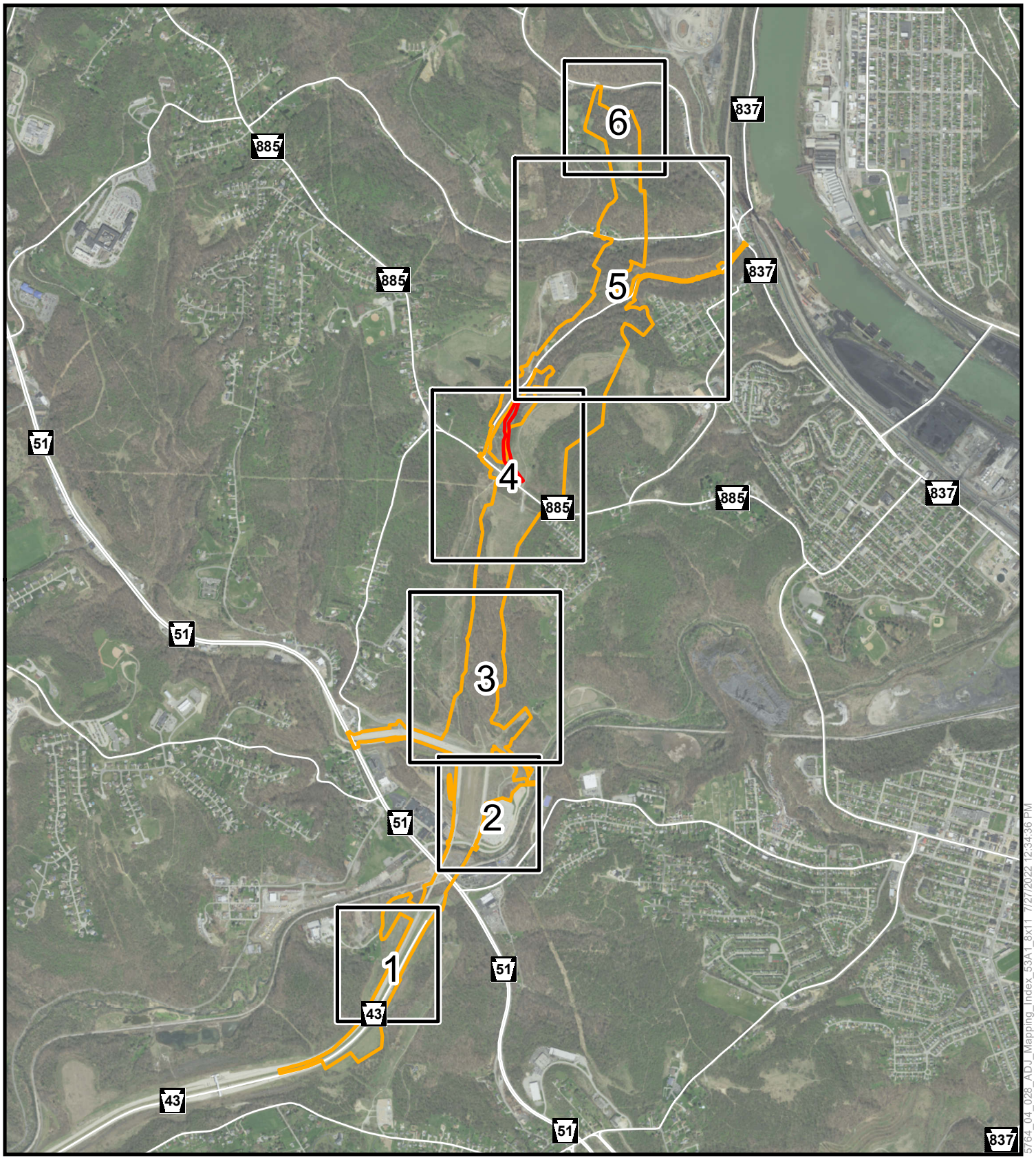
[10] Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA *Memorandum Regarding CWA Act Jurisdiction Following Rapanos.*

☒ U.S. Geological Survey map(s). Cite scale & quad name: Glassport 2019.
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☒ National wetlands inventory map(s). Cite name: USFWS "Wetlands Mapper".
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth: Nov. 2021.
or ☒ Other (Name & Date): Corps on-site photographs Dec. 2021.
☐ Previous determination(s). File no. and date of response letter: .
☐ Applicable/supporting case law: .
☐ Applicable/supporting scientific literature: .
☒ Other information (please specify):Pennsylvania Mine Map Atlas. https://www.minemaps.psu.edu/. Accessed 9-10 June 2022.

B. ADDITIONAL COMMENTS TO SUPPORT JD: No flowing waters were observed during the 21 December 2021 field visit. The Antecedent Precipitation Tool (APT) idicated that this field visit occurred during a period which was "drier than normal" for the wet season. Minimal rainfall occurred the week before the site visit. Given the small ranage of the 30-year rolling normal range of precipitation, this day's site visit fell within a drier than normal range; however, it was not a drought condition and was only slightly under this 30-year average. This deviation was about 0.5 inch reduction in average rainfall. Given the observations of the stream condition and other evidence which led the Corps to conclude this waterway's minimal downstream contribution, the "drier than normal" APT rating does not have any overbearing implications on our analysis. The Corps believes that MON-1-S509 does not have a signficant nexus to a downstream TNW.



AJD Boundary
PJD/LOD (June 2021)

AJD and PJD Areas
Index Sheet
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
Intermittent Stream
Perennial Stream
Delineated Wetland

AJD and PJD Areas
Sheet 1 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
Intermittent Stream
Perennial Stream
Delineated Wetland

AJD and PJD Areas
Sheet 2 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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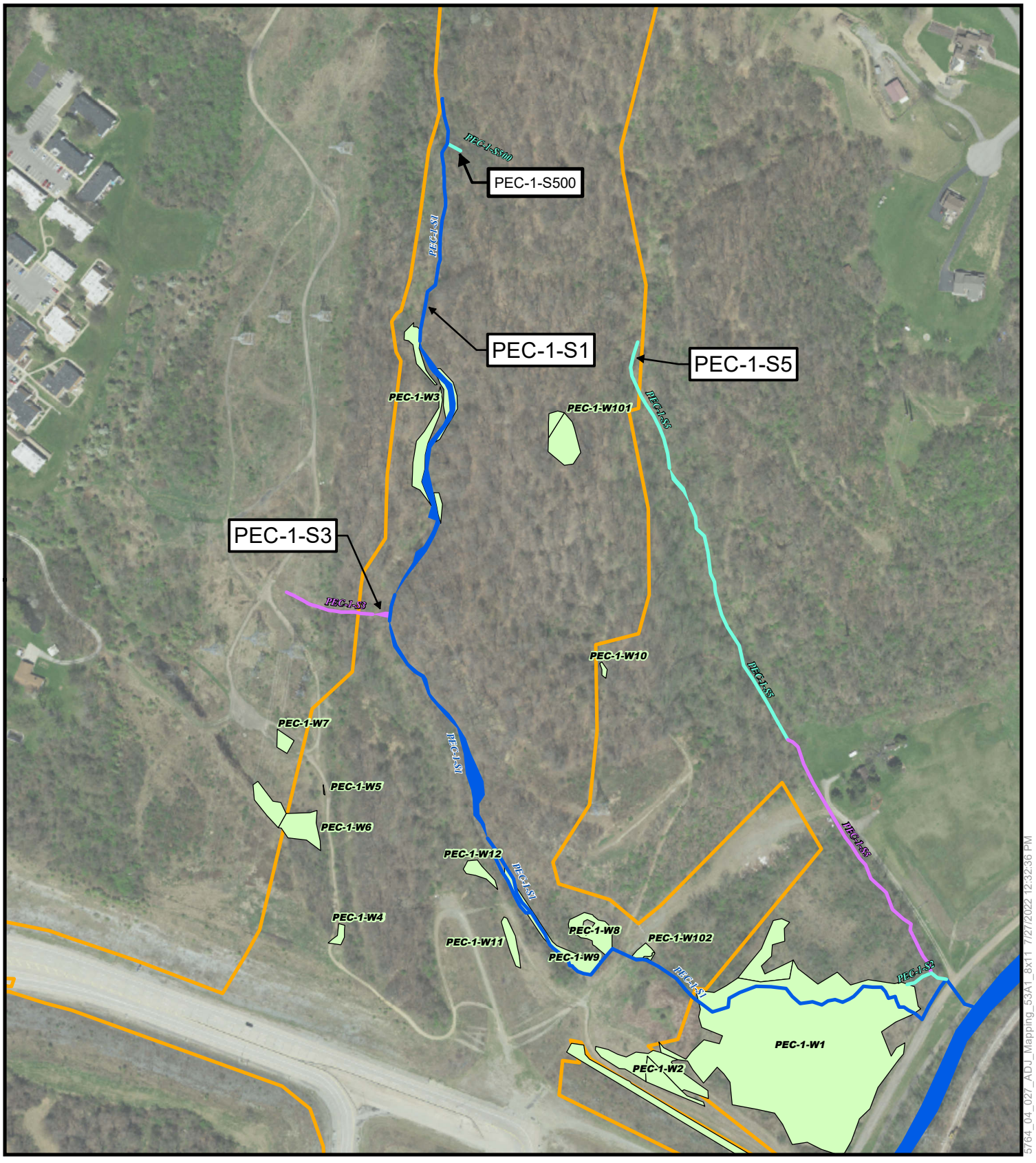

PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
Intermittent Stream
Perennial Stream
Delineated Wetland

AJD and PJD Areas
Sheet 3 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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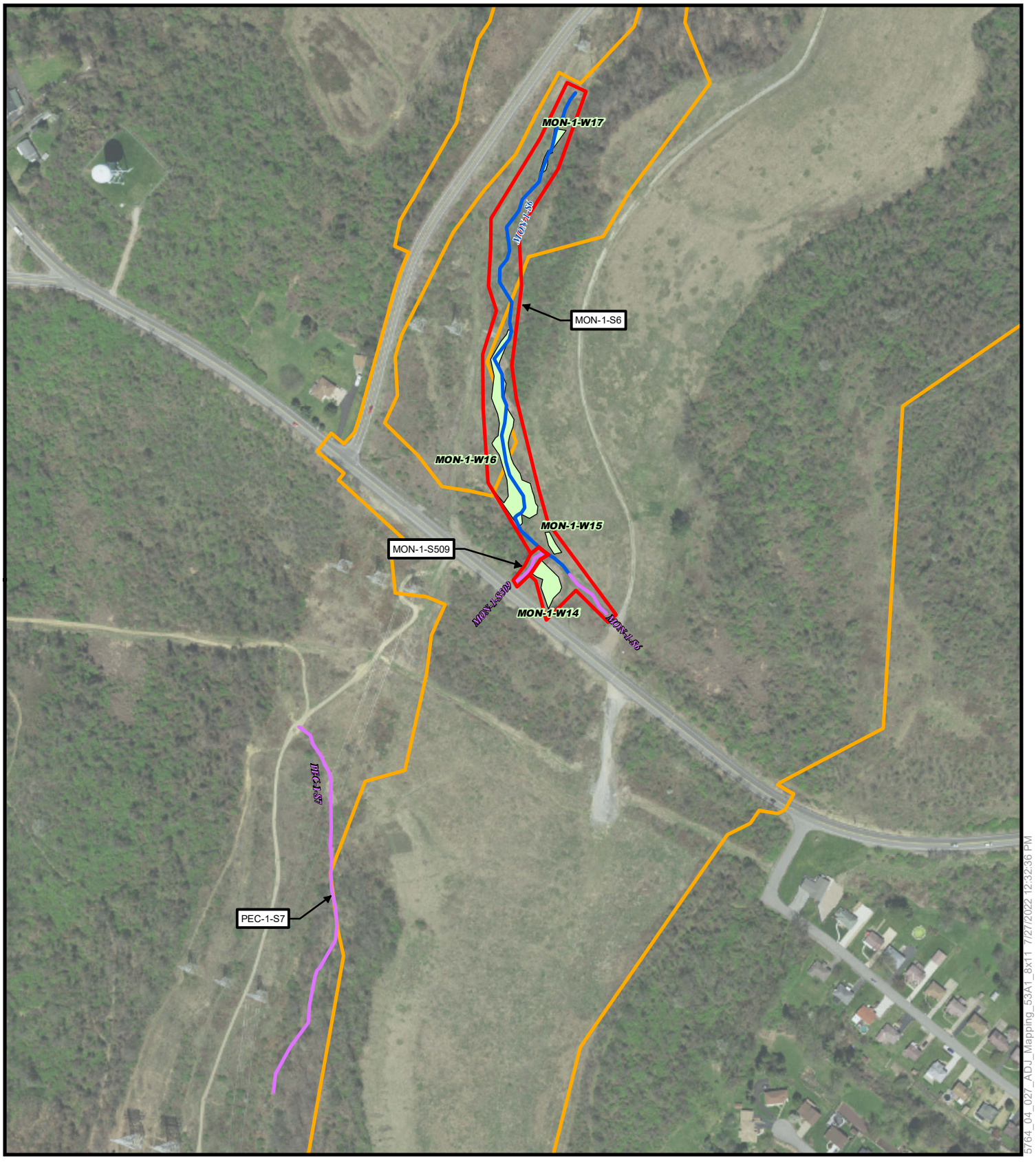

PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
Intermittent Stream
Perennial Stream
Delineated Wetland

AJD and PJD Areas
Sheet 4 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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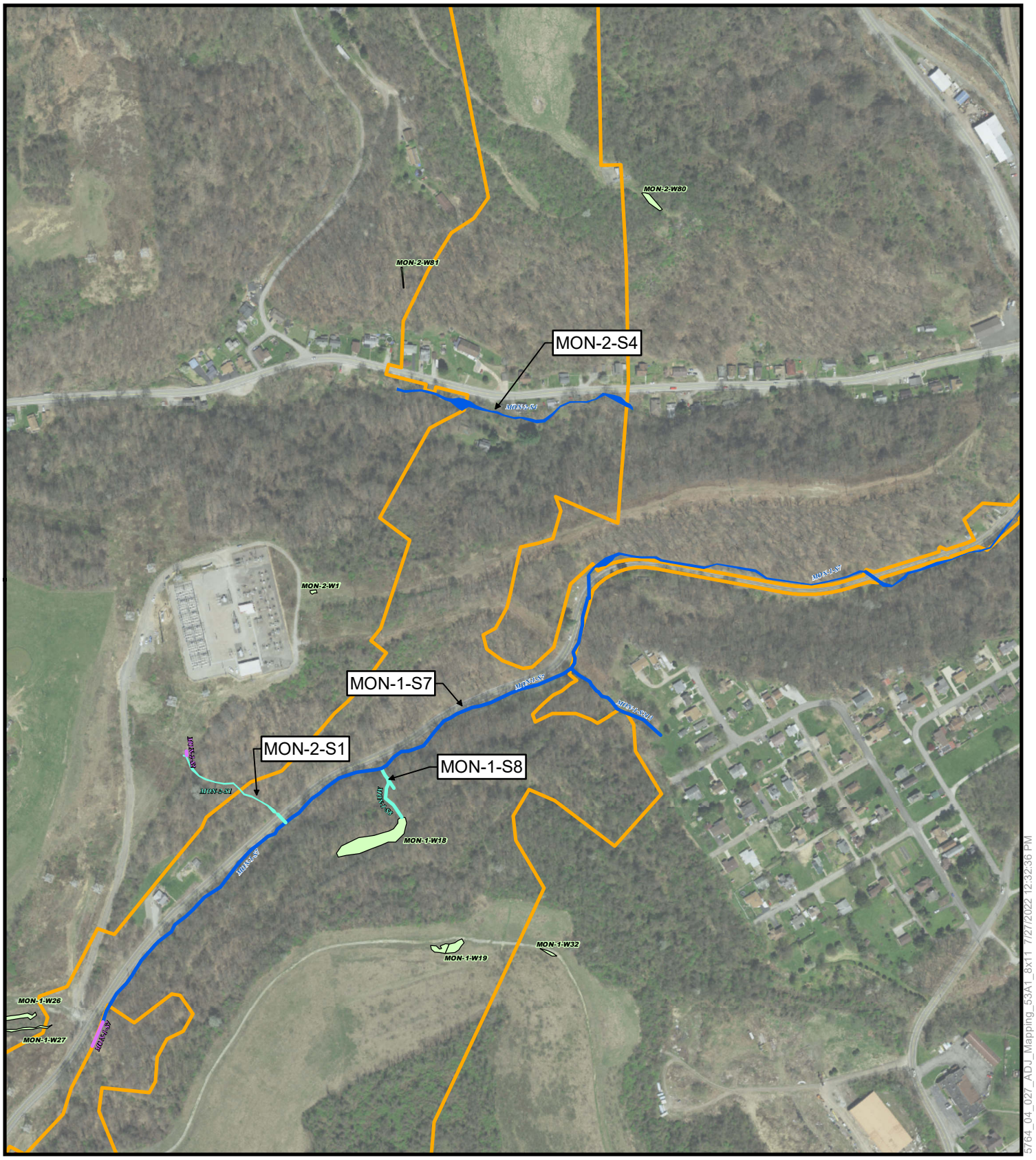

PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
Intermittent Stream
Perennial Stream
Delineated Wetland

AJD and PJD Areas
Sheet 5 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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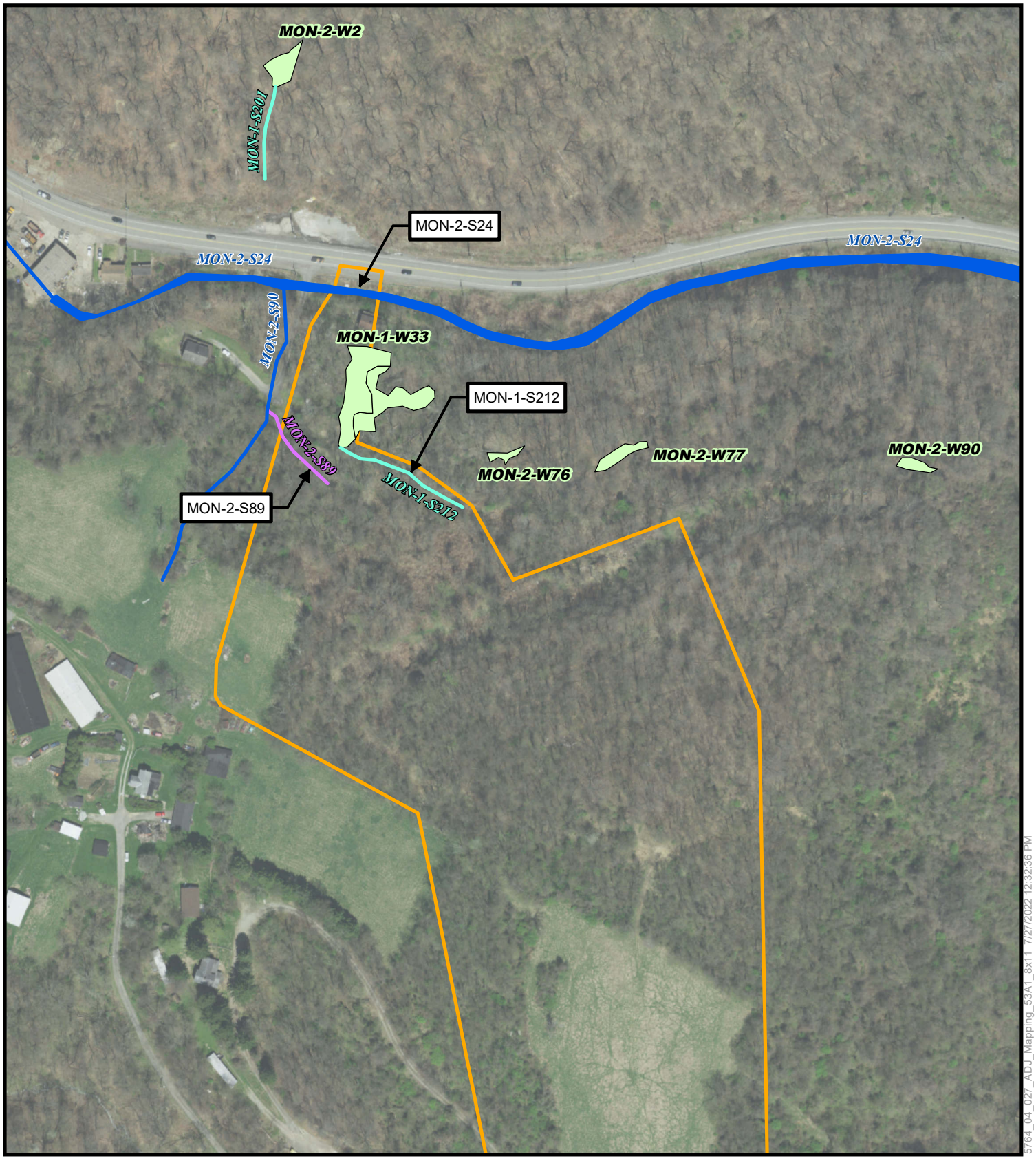

PJD/LOD (June 2021)
AJD Boundary
Ephemeral Stream
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AJD and PJD Areas
Sheet 6 of 6
Section 53A-1
Pennsylvania Turnpike Commission
Mon/Fayette Expressway
Rt 51 to I-376

Aerial Source: PEMA 2018

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5764_04_027_ADJ_Mapping_53A1_8x11 7/27/2022 12:32:36 PM