

**U.S. ARMY CORPS OF ENGINEERS
NORTH ATLANTIC DIVISION**

Date: 27 December 2005

ADMINISTRATIVE APPEAL DECISION

NICHOLAS PELES
PHILADELPHIA DISTRICT FILE NO. 200500414-30

Review Officer: James W. Haggerty, U.S. Army Corps of Engineers, North Atlantic Division

Appellant: Nicholas Peles

Date of Receipt of Request for Appeal: 24 June 2005

Date of Acceptance of Request for Appeal: 29 June 2005

Appeal Conference/Site Visit Date: 22 November 2005

NAD-ACCEPTED REASON FOR APPEAL:

NAD accepted for consideration the appellant's belief, as stated in his Request for Appeal, that wetlands are not present on the property because the wetland hydrology criterion is not met.

BACKGROUND INFORMATION:

On 1 March 2005, the Philadelphia District received a request for a determination of the extent of Department of the Army jurisdiction on an approximate 0.39-acre site identified as Tax Map 22-05, Lot 420, Salem Township, Wayne County, Pennsylvania. The rectangular shaped site is generally bounded to the north, south and west by other private property parcels and to the east by Orion Way. The appellant plans to construct a single-family dwelling on the parcel.

The district conducted an inspection of the site on 7 April 2005 and concluded that the delineation of wetlands as shown on the Boundary Resurvey & Plot Plan, prepared by Kiley Surveying and Mapping, revised 18 May 2005 was accurate. The district informed Mr. Peles of its findings in a 1 June 2005 letter.

INFORMATION RECEIVED DURING THE APPEAL REVIEW AND ITS DISPOSITION:

The Philadelphia District provided a copy of the administrative record, which was reviewed and considered in the appeal review process along with the results of the 22 November 2005 site inspection and appeal conference.

SUMMARY OF DECISION:

The appellant's request for appeal does not have merit because the administrative record and current Corps Regulatory policies support the Philadelphia District's determination that the wetland area on the property is jurisdictional under the Clean Water Act.

CENAD-PDS

SUBJECT: Nicholas Peles Appeal Decision, Philadelphia District File Number 200500414-30

EVALUATION OF THE REASONS FOR APPEAL/APPEAL DECISION FINDINGS:

In his request for appeal, the appellant believes that standing water that was present on the site at the time of the Philadelphia District's site inspection was the result of spring runoff after a very wet winter, and that in his opinion the property is dry the remainder of the time. The information contained in the district's administrative record sufficiently documents its finding that wetland hydrology is present on the site. The district arrived at its findings in accordance with the procedures specified in the 1987 Corps of Engineers' Wetland Delineation Manual and on the basis of information gathered during its site inspection. The record also sufficiently supports the district's distinction between upland and wetland areas on the site, and that the wetlands are jurisdictional since they are contiguous with an unnamed tributary to Lake Wallenpaupack, which is a tributary to the Delaware River, a navigable water of the United States. The appellant's contention that the standing water on the site is attributable to spring runoff does not invalidate the district's jurisdictional determination.

OVERALL CONCLUSION:

After reviewing and evaluating the entirety of the administrative record provided by the Philadelphia District, NAD concludes its determination regarding the jurisdictional status of the wetland area on the property in question is adequately supported. NAD hereby finds that the appellant's request for appeal does not have merit.

SIGNED

WILLIAM T. GRISOLI
Brigadier General, USA
Commanding