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): July 3, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: 2013-01330 (2775 Broadway Buffalo, LLC)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: New York County/parish/borough: Erie City: Cheektowaga
Center coordinates of site (lat/long in degree decimal format): Lat. 42.90058 °N °, Long. -78.77051 °W °
Universal Transverse Mercator: *Click here to enter text.*
Name of nearest waterbody: Unnamed Tributary to Cayuga Creek
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Lake Erie
Name of watershed or Hydrologic Unit Code (HUC): 4120103

- ☐ 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: May 8, 2014
- ☑ Field Determination. Date(s): April 25, 2014,

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: *Click here to enter text.*

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There are "*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: 13.46 acres.

   c. **Limits (boundaries) of jurisdiction** based on: *Choose an item.*

   Elevation of established OHWM (if known): *Click here to enter text.*

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: **I conducted a site visit on April 25, 2014 and also reviewed in-house resources including, topographical maps, aerial photography and soils maps. I walked the perimeter of Wetland W1 (0.36 acres) and I did not observe any surface flow or culverts going away from the wetland or any shallow subsurface connections. No ecological nexus to any drainageways were seen in the vicinty of wetland W1. Wetland W1 appeared to be only intermittently saturated a vernal pool that may support amphibian species. Wetland W1 did not show evidence of standing water (no water marks or drift lines) and therefore may not hold water long enough for substantial flood storage. I didn't observe any drainages or flow from Wetland W1 into any other wetland or**

[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.

drainageway during the field visit . A review of the USGS Buffalo NE Quad showed a mapped, unnamed tributary to Cayuga Crrek approximately 2,000 feet away to the South. No connection was observed in the field or found through a in-house review between Wetland W1 and the unnamed tributary to Cayuga Creek. Wetland W1 is geographically isolated and therefore are not jurisdictional. The delineated 6.6 acre parcel is surrounded on all sides by industrial development, railroad tracks or roadways.

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: *Click here to enter text.*

Summarize rationale supporting determination: *Click here to enter text.*

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent": *Click here to enter text.*

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: *# Choose an item.*
Drainage area: *# Choose an item.*
Average annual rainfall: inches
Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

☐ Tributary flows directly into TNW.

☐ Tributary flows through 2 tributaries before entering TNW.

Project waters are *Choose an item.* river miles from TNW.
Project waters are *Choose an item.* river miles from RPW.
Project waters are *Choose an item.* aerial (straight) miles from TNW.
Project waters are *Choose an item.* aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW[5]:
Tributary stream order, if known:

(b) General Tributary Characteristics (check all that apply):

Tributary is: ☐ Natural

☐ Artificial (man-made). Explain: *Click here to enter text.*

☐ Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: *Choose an item.*

---

[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.

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry: *Choose an item.*
Tributary gradient (approximate average slope):

(c) Flow:
Tributary provides for: *Choose an item.*
Estimate average number of flow events in review area/year: *Choose an item.*
Describe flow regime:
Other information on duration and volume: *Click here to enter text.*

Surface flow is: confined Characteristics:

Subsurface flow: *Choose an item.* Explain findings:

- ☐ Dye (or other) test performed: *Click here to enter text.*

Tributary has (check all that apply):

- ☐ Bed and banks
- ☐ OHWM[6] (check all indicators that apply):
  - ☐ clear, natural line impressed on the bank
  - ☐ changes in the character of soil
  - ☐ shelving
  - ☐ vegetation matted down, bent, or absent
  - ☐ leaf litter disturbed or washed away
  - ☐ sediment deposition
  - ☐ water staining
  - ☐ other (list): *Click here to enter text.*
  - ☐ the presence of litter and debris
  - ☐ destruction of terrestrial vegetation
  - ☐ the presence of wrack line
  - ☐ sediment sorting
  - ☐ scour
  - ☐ multiple observed or predicted flow events
  - ☐ abrupt change in plant community *Click here to enter text.*
- ☐ Discontinuous OHWM.[7] Explain: *Click here to enter text.*

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): *Click here to enter text.*
- ☐ 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:
Identify specific pollutants, if known:

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

- ☐ Riparian corridor. Characteristics (type, average width):
- ☐ Wetland fringe. Characteristics: *Click here to enter text.*
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: *Click here to enter text.*
  - ☐ Fish/spawn areas. Explain findings: *Click here to enter text.*
  - ☐ Other environmentally-sensitive species. Explain findings: *Click here to enter text.*
  - ☐ Aquatic/wildlife diversity. Explain findings: *Click here to enter text.*

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

(i) Physical Characteristics:

---

[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.
[7] Ibid.

(a) General Wetland Characteristics:
Properties:
Wetland size: acres
Wetland type. Explain:
Wetland quality. Explain:
Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:
Flow is: *Choose an item.* Explain:

Surface flow is: *Choose an item.*
Characteristics:

Subsurface flow: No Explain findings:
☐ Dye (or other) test performed: *Click here to enter text.*

(c) Wetland Adjacency Determination with Non-TNW:
☐ Directly abutting
☐ Not directly abutting
☐ Discrete wetland hydrologic connection. Explain: *Click here to enter text.*
☐ Ecological connection. Explain: *Click here to enter text.*
☐ Separated by berm/barrier. Explain: *Click here to enter text.*

(d) Proximity (Relationship) to TNW
Project wetlands are *Choose an item.* river miles from TNW.
Project waters are *Choose an item.* aerial (straight) miles from TNW.
Flow is from: *Choose an item.*
Estimate approximate location of wetland as within the *Choose an item.* 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:.
Identify specific pollutants, if known:

(iii) Biological Characteristics. Wetland supports (check all that apply):
☐ Riparian buffer. Characteristics (type, average width): *Click here to enter text.*
☐ Vegetation type/percent cover. Explain:
☐ Habitat for:
☐ Federally Listed species. Explain findings: *Click here to enter text.*
☐ Fish/spawn areas. Explain findings: *Click here to enter text.*
☐ Other environmentally-sensitive species. Explain findings: *Click here to enter text.*
☐ Aquatic/wildlife diversity. Explain findings:

3. Characteristics of all wetlands adjacent to the tributary (if any)
All wetland(s) being considered in the cumulative analysis: *Choose an item.*
Approximately 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)
Y/N		*Y/N*	*#*

Summarize overall biological, chemical and physical functions being performed:

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: *Click here to enter text.*

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: *Click here to enter text.*

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: *Click here to enter text.*.
   - ☐ 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: *Click here to enter text.*.

   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: *Click here to enter text.*

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: *Click here to enter text.*

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: *Click here to enter text.*
     - ☐ 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: *Click here to enter text.*

   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: *Click here to enter text.*
- [ ] Other factors. Explain: *Click here to enter text.*

Identify water body and summarize rationale supporting determination: *Click here to enter text.*

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: *Click here to enter text.*
- [ ] 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.
- [x] Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
  - [x] 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: *Click here to enter text.*
- [ ] Other: (explain, if not covered above): *Click here to enter text.*

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: *Click here to enter text.*.
- [x] Wetlands: 0.36 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): # linear feet # width (ft).
- [ ] Lakes/ponds: # acres.
- [ ] Other non-wetland waters: # acres. List type of aquatic resource:
- [x] Wetlands: 0.36 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):

- [x] Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Earth Dimensions, Inc Delineation dated November 2013
- [ ] 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: *Click here to enter text.*
- [ ] Corps navigable waters' study: *Click here to enter text.*
- [ ] U.S. Geological Survey Hydrologic Atlas: *Click here to enter text.*
  - [ ] USGS NHD data.
  - [ ] USGS 8 and 12 digit HUC maps.
- [x] U.S. Geological Survey map(s). Cite scale & quad name: Buffalo NE, 1:20,000
- [x] USDA Natural Resources Conservation Service Soil Survey. Citation: USDA/NRCS Web Soil Survey
- [x] National wetlands inventory map(s). Cite name: USFWS Wetland Mapper; A mapped Federal wetland is within the vicinity of the delineated parcel

[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.*

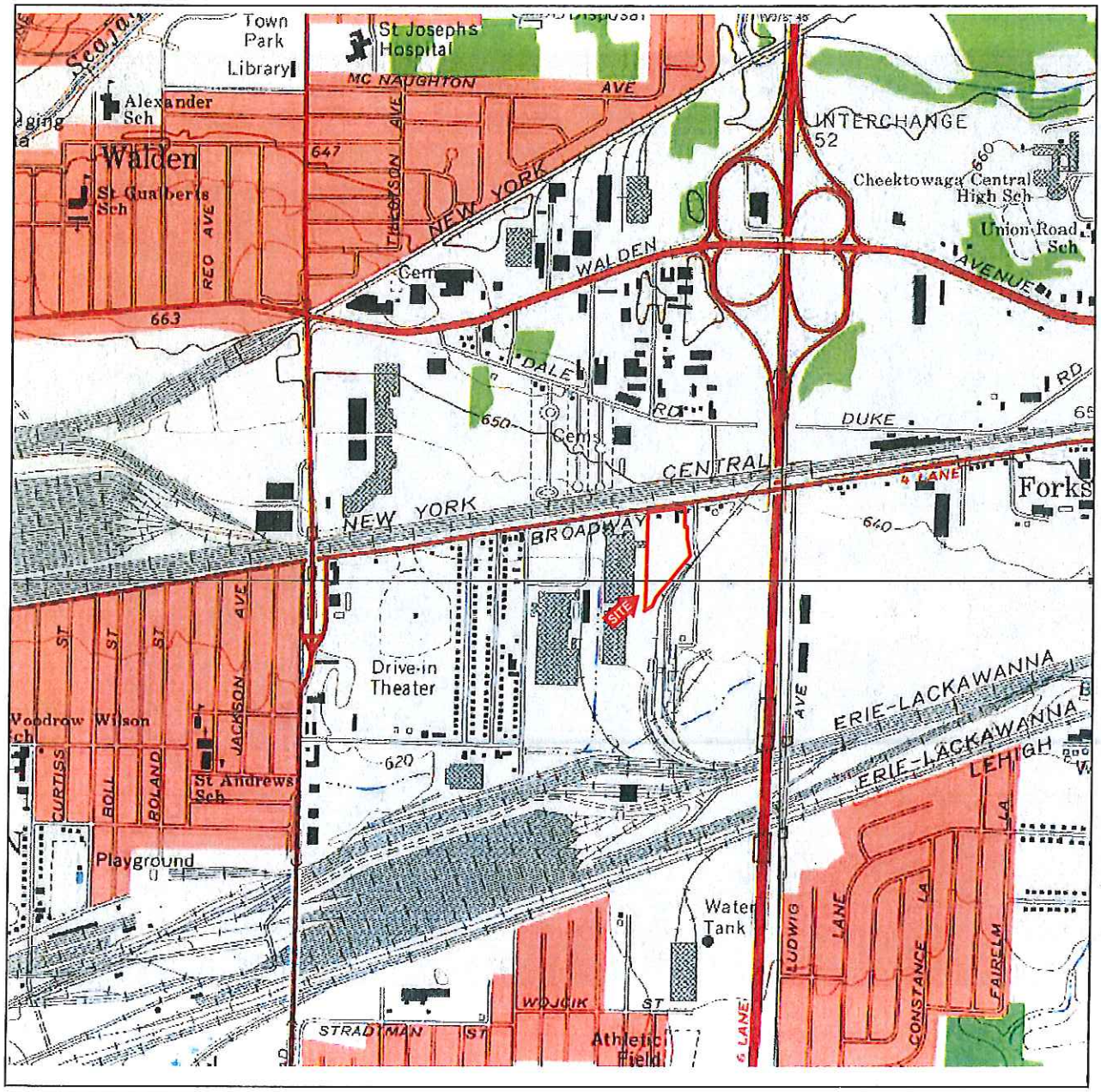
- [x] State/Local wetland inventory map(s): NYSDEC Environmental Resource Mapper, No NYSDEC regulated wetlands are within the vicinity of the delineated parcel
- [ ] FEMA/FIRM maps: *Click here to enter text.*
- [ ] 100-year Floodplain Elevation is: *Click here to enter text.* (National Geodectic Vertical Datum of 1929)
- [x] Photographs: [x] Aerial (Name & Date): Bing/Google Maps
  - [ ] or [ ] Other (Name & Date): *Click here to enter text.*
- [ ] Previous determination(s). File no. and date of response letter: *Click here to enter text.*
- [ ] Applicable/supporting case law:
- [ ] Applicable/supporting scientific literature:
- [ ] Other information (please specify):

B. ADDITIONAL COMMENTS TO SUPPORT JD: Isolated wetland W1 (0.36 acres) was field verified by the Corps of Engineers on April 25, 2014. The perimeter of the wetland was walked and no evidence of any connection to other waters was identified. There was no connection between Wetland W1 (0.36 ACRES) and any other waters on the Buffalo NE USGS Quad or the USDA/NRCS Web Soil Survey. Wetland W1 IS isolated and outside the Department of the Army's jurisdiction. The determination is supported by the review of in-house resources and verified from a site visit. None of the 328.3(a)(3)(i-iii) factors are relevant in this case. Wetland W1 doesn't support recreational or other use by interstate travelers, nor does it provide habitat for fish or shellfish. Wetland W1offers no use for industrial or commercial purposes. Wetland W1 (0.36 acres) was determined to be isolated and therefore non-jurisdictional.

June 11, 2014

Joseph M. Rowley
Project Manager

Date



EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

Figure 1: USGS 7.5 Minute Topographical Map
Buffalo NE Quadrangle/ 2002 DeLorme

2775 Broadway
Town of Cheektowaga, Erie County, New York

2775 Broadway Buffalo, LLC
D/A Processing No. 2013-01330
Erie County, New York
Quad: Buffalo NE
Sheet 1 of 7

2775 Broadway Buffalo, LLC
D/A Processing No. 2013-01330
Erie County, New York
Quad: Buffalo NE
Sheet 2 of 7

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

Figure 2: National Wetlands Inventory Map
http://www.fws.gov/wetlands/Data/Mapper.html
Site visited 11/26/13

2775 Broadway
Town of Cheektowaga, Erie County, New York

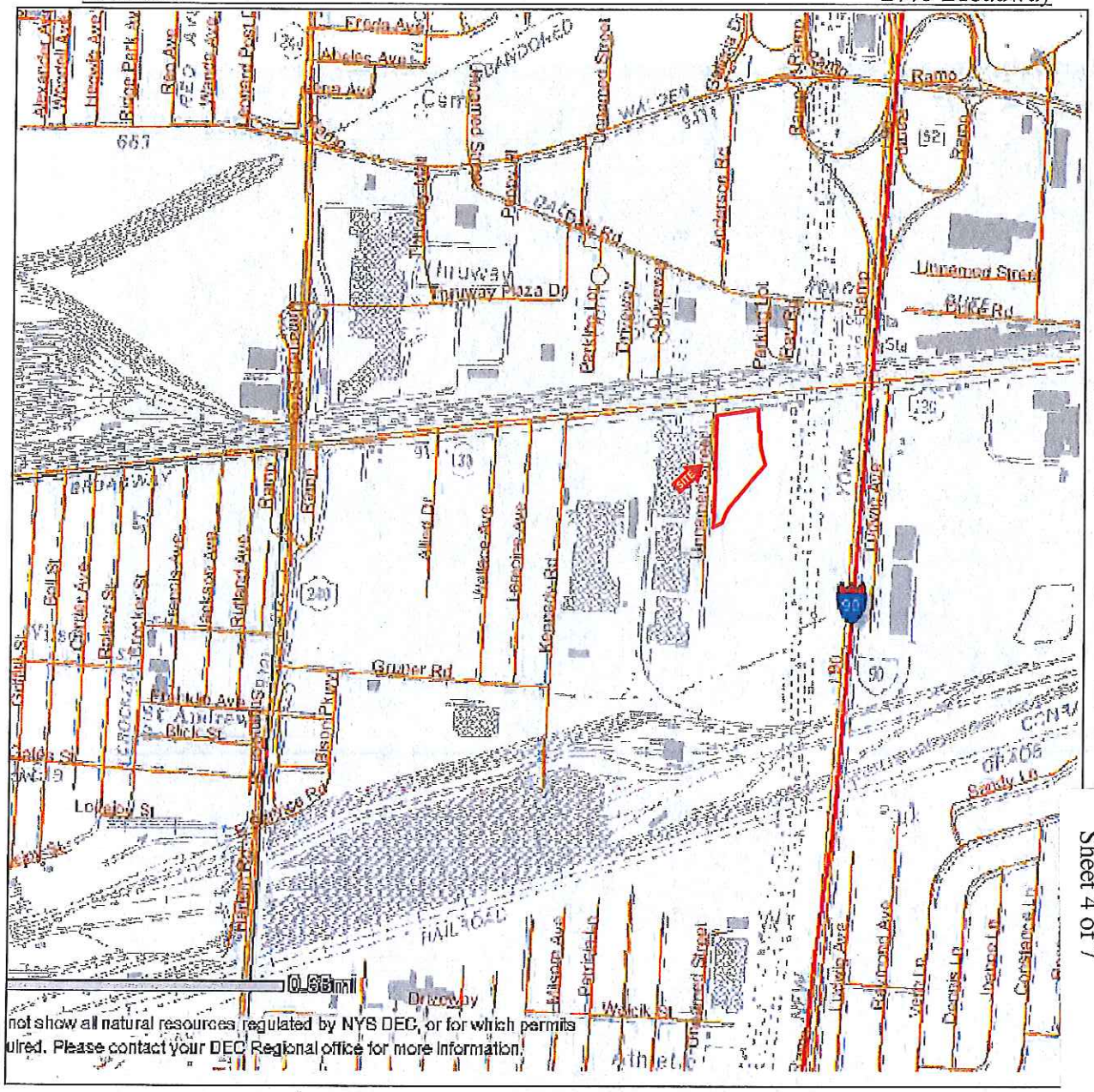
W14K13 2775 Broadway

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

Figure 3: NRCS Erie County Soil Survey Map
http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx
Site visited 11/26/13

2775 Broadway
Town of Cheektowaga, Erie County, New York

W14K13 2775 Broadway

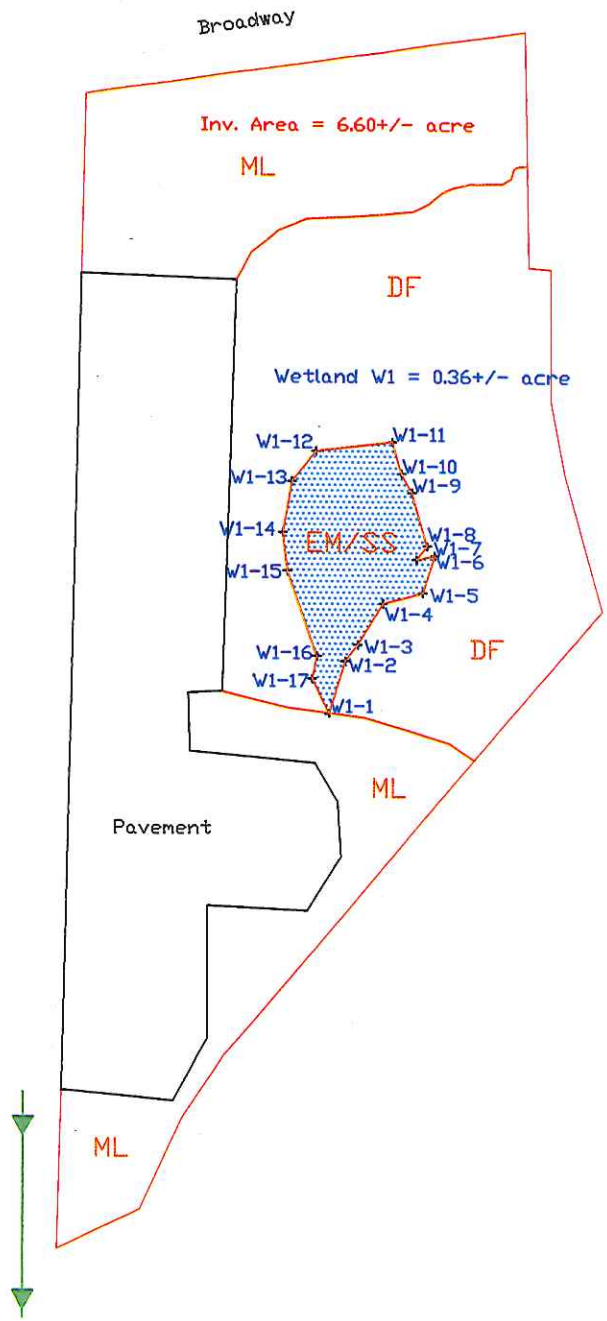

Broadway
Transit Rd
Harlem Rd
Genesee St
Walden Ave
Dodge Rd
Gruner Rd
Kenmore Ave
Wehrle Dr
Harlem Rd
Transit Rd
Dodge Rd
Genesee St
Walden Ave
Gruner Rd
Kenmore Ave

2775 Broadway Buffalo, LLC
D/A Processing No. 2013-01330
Erie County, New York
Quad: Buffalo NE
Sheet 5 of 7

Figure 5: General Vegetation Map

Town of Cheektowaga — Erie County, New York

EARTH DIMENSIONS, INC.



2775 Broadway

LEGEND

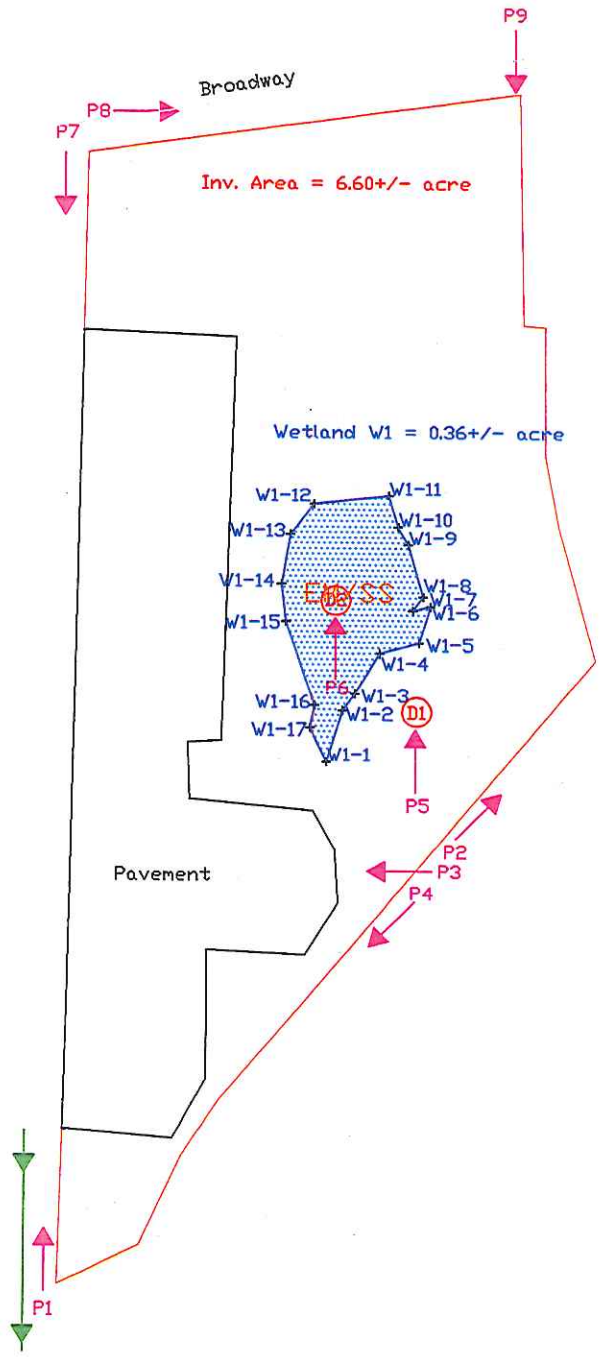
- Limits of Investigation
- W1-1 Wetland Boundary Flag
- Wetland Area
- ML Mown Lawn W/ trees
- DF Disturbed Forest
- EM/SS Emergent marsh/shrub-swamp

Scale:
Map Date: November 26, 2013/ TJS for EDI Revised:
Base Map Provided By: Garmin GPSmap 60CSx 4-9 foot accuracy
File Name: Wetland Delineation Map.dwg

Figure 6: Wetland Delineation Map

Town of Cheektowaga — Erie County, New York

EARTH DIMENSIONS, INC.



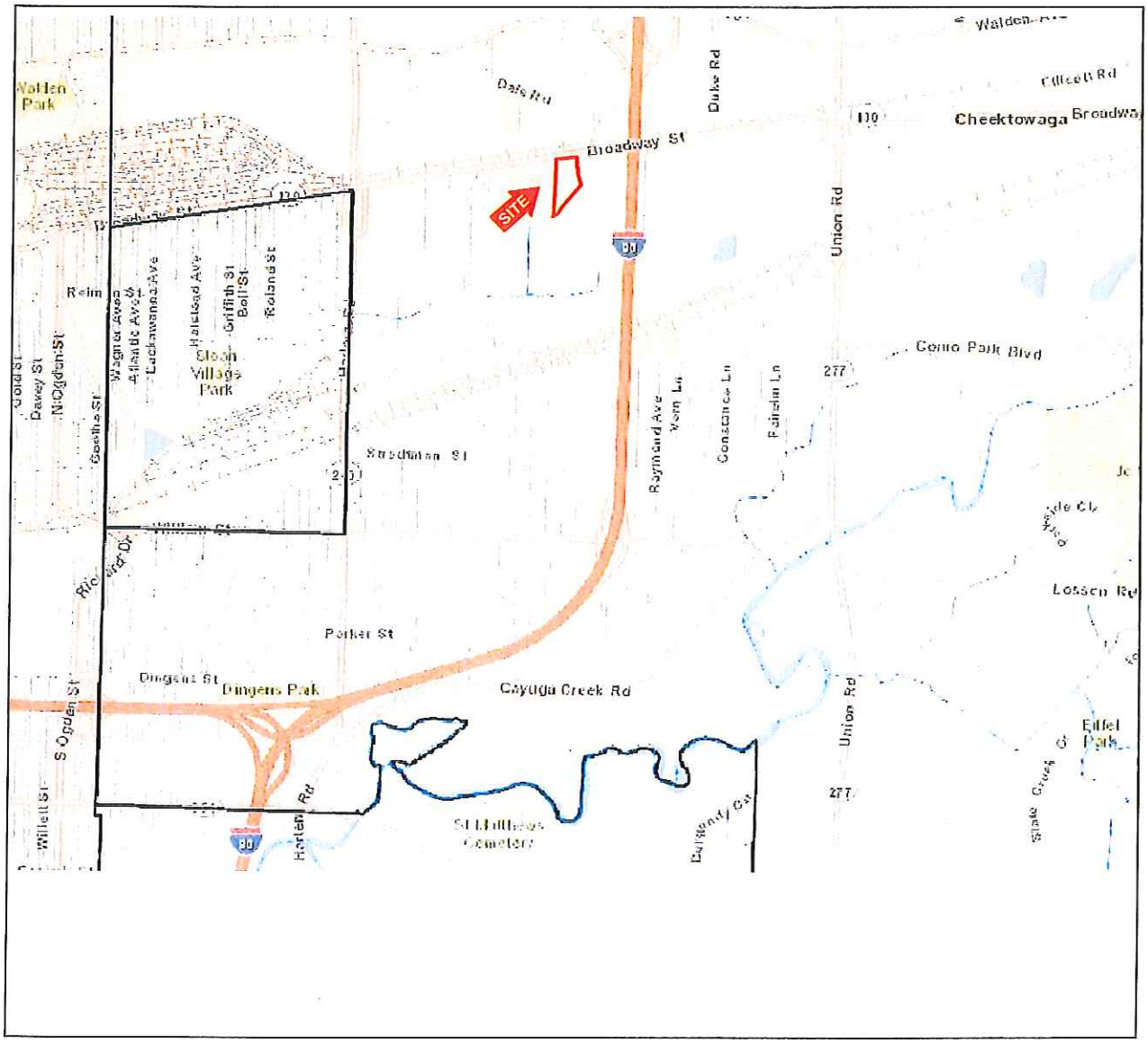
2775 Broadway

LEGEND

- Limits of Investigation
- Drainages
- W1-1 Wetland Boundary Flag
- Wetland Area
- Photo Location
- D1 Data Point Location

2775 Broadway Buffalo, LLC
D/A Processing No. 2013-01330
Erie County, New York
Quad: Buffalo NE
Sheet 6 of 7

Scale:
Map Date: November 26, 2013/ TJS for EDI Revised:
Base Map Provided By: Garmin GPSmap 60CSx 4-9 foot accuracy
File Name: Wetland Delineation Map.dwg
EDI Project Code: W14K13



2775 Broadway Buffalo, LLC
D/A Processing No. 2013-01330
Erie County, New York
Quad: Buffalo NE
Sheet 7 of 7

EARTH DIMENSIONS, INC.
* Soil & Hydrogeologic Investigations * Wetland Delineations
1091 Jamison Road, Elma NY 14059
(716) 655-1717 * Fax (716) 655-2915 www.earthdimensions.com

Figure 7: Drainage Map
http://gis1.erie.gov/GC/ErieCountyNY/default.htm
Site visited 11/26/13

2775 Broadway
Town of Cheektowaga, Erie County, New York