

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): March 19, 2014

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Buffalo District, CNY Raceway Park, 2012-00022

C. PROJECT LOCATION AND BACKGROUND INFORMATION: The CNY Raceway Park, Inc. submitted a request for a jurisdictional determination for a 143.5 acre site located on the east side of Route 11 and on the west side of NYS Route 81, north of the Village of Brewerton. Nineteen wetlands and six streams were delineated on the site. This Approved JD pertains only to a portion of the site totalling 59.5 acres, containing Wetlands 5-19. See the attached table for a list of the wetlands for this Approved JD review area. Note: a preliminary JD has been completed for the remainder of the site and includes Wetlands 1-4 and Streams 1-6.

State: New York County/parish/borough: Oswego Town: Hastings
Center coordinates of site (lat/long in degree decimal format): Lat. 43.25099 °, Long. -76.13757 °
Universal Transverse Mercator: Zone 18, Y 4789315.11276728, X 407656.347533678

Name of nearest waterbody: unnamed tributary to Oneida Lake

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Oneida Lake

Name of watershed or Hydrologic Unit Code (HUC): 4140202

- 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 (A Preliminary JD has been completed for the remainder of the site and includes Wetlands 1-5 and Streams 1-6.)

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

- Office (Desk) Determination. Date: December 30, 2013
- Field Determination. Date(s): November 15, 2013, [Click here to enter a date.](#)

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 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 waters² (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: # acres.

c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual

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.

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.

Explain: Wetlands 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 (totaling 7.26 acres) are outside Department of the Army jurisdiction and do not meet the criteria for a jurisdictional water of the United States according to 33 CFR Part 328.3(a)(1-7) as follows:

1. do not/has not supported interstate or foreign commerce; **These wetlands do not provide any ecological interconnect to downstream waters and are not confined by a berm, dam, or obstruction other than topography.**
2. are not an interstate water/wetland; **these wetlands do not cross state boundaries**
3. the degradation or destruction of which would not affect interstate or foreign commerce and do not include such waters:
 - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (iii) which are used or could be used for industrial purpose by industries in interstate commerce

These wetlands cannot be used by interstate or foreign travelers for recreational or other purposes, fish or shellfish cannot be taken and sold in interstate or foreign commerce, and the wetlands could not be used for industrial purposes by industries in interstate commerce.

4. are not impoundments of water otherwise defined as WOUS under the definition;
5. are not tributaries of waters identified in paragraphs (a)(1)-(4) of this section;
6. are not territorial seas;
7. are not wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1)-(6) of this section;

The nearest wetland (Wetland 11) is located over 400 feet from the nearest stream (Stream 4). These wetlands do not provide any ecological/hydrologic interconnect to downstream waters and are not confined by a berm, dam, or obstruction other than topography. The area between Wetland 11 and Stream 4 is a cleared portion of the site, and appears to likely be cut for hay.

Wetlands: Wetland 5 is 0.71 acres, Wetland 6 is 1.07 acres, Wetland 7 is 1.17 acres, Wetland 8 is 1.22 acres, Wetland 9 is 0.02 acres, Wetland 10 is 0.59 acres, Wetland 11 is 1.33 acres, Wetland 12 is 0.10 acres, Wetland 13 is 0.02 acres, Wetland 14 is 0.02 acres, Wetland 15 is 0.07 acres, Wetland 16 is 0.26 acres, Wetland 17 is 0.25 acres, Wetland 18 is 0.39 acres and Wetland 19 is 0.04 acres, for a total 7.26 acres. The applicant recently cleared the area in which these wetlands are located in a non-jurisdictional manner, which could have made them more wet than they were prior. Based upon aerial photographs, it appears that all of the wetlands were early successional forest with the exception of Wetlands 5 and 6 which appear as wet meadow. The wetlands now resemble wet meadow with stump sprouting from cut trees.

Limited functional attributes for all features described above include: 1) collection of surface water runoff that may contain pollutants such as petroleum products, herbicides, from the adjacent roadway and track; 2) storm water retention; and 3) marginal wildlife habitat for mammals, amphibians and migratory birds (since clearing). The source of hydrology is precipitation and surface water run-off and the potential for groundwater influence is not apparent. Collected water infiltrates or evaporates and does not enter a WOUS. As noted above, the waters identified above are all at least several hundred feet from the nearest tributary WOUS. Given the extreme distances, it is highly unlikely that there are any shallow subsurface connections between any of the above waters and a surface water tributary to a navigable WOUS. Further, given both the lack of hydrologic connection and very limited habitat functions provided by these waters, the above-described wetlands do not comprise a component of an ecological continuum and do not contribute to characteristics that would influence the physical, chemical, and biological integrity of downstream waters.

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 waterbody⁴ 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 [Choose an item](#) 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: [Click here to enter text](#).

Identify flow route to TNW⁵: [Click here to enter text](#).

Tributary stream order, if known: [Click here to enter text](#).

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

Tributary is: Natural

Artificial (man-made). Explain: [Click here to enter text](#).

Manipulated (man-altered). Explain: [Click here to enter text](#).

Tributary properties with respect to top of bank (estimate):

Average width: # feet

Average depth: # feet

Average side slopes: [Choose an item](#).

Primary tributary substrate composition (check all that apply):

Silts Sands Concrete

Cobbles Gravel Muck

Bedrock Vegetation. Type/% cover: [Click here to enter text](#).

Other. Explain: [Click here to enter text](#).

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: [Click here to enter text](#).

Presence of run/riffle/pool complexes. Explain: [Click here to enter text](#).

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: [Click here to enter text](#).

Other information on duration and volume: [Click here to enter text](#).

Surface flow is: [Choose an item](#). Characteristics: [Click here to enter text](#).

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.

Subsurface flow: [Choose an item](#). Explain findings: [Click here to enter text](#).

Dye (or other) test performed: [Click here to enter text](#).

Tributary has (check all that apply):

Bed and banks

OHWM⁶ (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 [Click here to enter text](#).

other (list): [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:

Mean High Water Mark indicated by:

oil or scum line along shore objects survey to available datum;

fine shell or debris deposits (foreshore) physical markings;

physical markings/characteristics vegetation lines/changes in vegetation types.

tidal gauges

other (list): [Click here to enter text](#).

(iii) Chemical Characteristics:

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

[Click here to enter text](#).

Identify specific pollutants, if known: [Click here to enter text](#).

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

Riparian corridor. Characteristics (type, average width): [Click here to enter text](#).

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:

(a) General Wetland Characteristics:

Properties:

Wetland size: # acres

Wetland type. Explain: [Click here to enter text](#).

Wetland quality. Explain: [Click here to enter text](#).

Project wetlands cross or serve as state boundaries. Explain: [Click here to enter text](#).

(b) General Flow Relationship with Non-TNW:

Flow is: [Choose an item](#). Explain: [Click here to enter text](#).

Surface flow is: [Choose an item](#).

Characteristics: [Click here to enter text](#).

Subsurface flow: [Choose an item](#). Explain findings: [Click here to enter text](#).

Dye (or other) test performed: [Click here to enter text](#).

(c) Wetland Adjacency Determination with Non-TNW:

⁶A 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.

⁷Ibid.

- 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: [Click here to enter text.](#)

Identify specific pollutants, if known: [Click here to enter text.](#)

(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: [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.](#)

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:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y/N	#	Y/N	#
Y/N	#	Y/N	#
Y/N	#	Y/N	#

Summarize overall biological, chemical and physical functions being performed: [Click here to enter text.](#)

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: [Click here to enter text.](#)
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-RPWs⁸ 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 jurisdictional. 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).

⁸See 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: [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.
- 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: [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.](#)
Wetlands: Wetland 5 is 0.71 acres, Wetland 6 is 1.07 acres, Wetland 7 is 1.17 acres, Wetland 8 is 1.22 acres, Wetland 9 is 0.02 acres,
- Wetland 10 is 0.59 acres, Wetland 11 is 1.33 acres, Wetland 12 is 0.10 acres, Wetland 13 is 0.02 acres, Wetland 14 is 0.02 acres, Wetland 15 is 0.07 acres, Wetland 16 is 0.26 acres, Wetland 17 is 0.25 acres, Wetland 18 is 0.39 acres and Wetland 19 is 0.04 acres. Total 7.26 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: [Click here to enter text.](#)
- Wetlands: # 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: Original delineation conducted by Earth Dimensions, Inc. (EDI), dated November 11, 2013. Revised delineation submitted by EDI, dated November 25, 2013 based upon changes requested as a result of Corps’ site inspection.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
 - Office concurs with data sheets/delineation report dated November 25, 2013.
 - 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.](#)

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.

- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Central Square Quadrangle. The site ranges in topography from 380 to 400 feet amsl. Two perennial streams are identified on the Approved JD review area, one of which flows into the other, and subsequently flows under Interstate 81 and into Oneida Lake.
- USDA Natural Resources Conservation Service Soil Survey. Citation: Oswego County Soil Survey (web soil survey). Mapped soils include HuB (Hudson silt loam), IrB (Ira gravelly fine sandy loam), Ma (Madalin silt loam), RhA and B (Rhinebeck silt loam), ScB (Scriba gravelly fine sandy loam), and SgB and C (Sodus gravelly fine sandy loam). Of these, Madalin silt loam is predominately hydric, and is primarily located within a strip in the center of the property, within areas mapped as Wetlands 1/4 discussed on the preliminary JD. The soils on the Approved JD portion of the site are identified as predominately non-hydric or non-hydric, with the exception of a small portion of Madaline silt loam, which is a predominately hydric soil. This is mapped near and within areas mapped as Wetlands 7 and 8. Although the soil series continues off-site, the wetlands did not continue to the property line.
- National wetlands inventory map(s). Cite name: Central Square Quadrangle. No wetlands are mapped on the project site.
- State/Local wetland inventory map(s): Central Square Quadrangle. No wetlands are mapped on the project site.
- FEMA/FIRM maps: [Click here to enter text.](#)
- 100-year Floodplain Elevation is: [Click here to enter text.](#) (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): Various aerial photographs were inspected, including the 2011, 2006, 2003, and 1994 NYSGIS Clearinghouse aerial photos as well as the aerial photo from bing.com/maps. Clearing of the review area has occurred since the most recent photographs, but this was done in a non-jurisdictional manner as trees were cut by hand and stumps were not removed.
- Other (Name & Date): On-site photos provided with delineation report.
- Previous determination(s). File no. and date of response letter: [Click here to enter text.](#)
- Applicable/supporting case law: [Click here to enter text.](#)
- Applicable/supporting scientific literature: [Click here to enter text.](#)
- Other information (please specify): Site inspection conducted on November 15, 2013. At this time, the Corps confirmed that Wetlands 5-19 are isolated as there is no surface water connection from any of these wetlands to a tributary system. The Corps requested that the consultant provide data on the northeast sides of Wetlands 5 and 6, which were delineated to the property line, to determine if the wetlands extend into the NYSDOT right-of-way (ROW). The consultant provided the Corps with data that the wetland boundaries end at the property line and do not extend into the ROW. The ditch line along the NYSDOT ROW at this location is very small and did not appear to contain relatively permanent water and would likely not be deemed a regulated feature. Further, the area between the wetlands and the ditch was an upland mowed field.

B. ADDITIONAL COMMENTS TO SUPPORT JD: NA

Margaret A. Crawford
Project Manager

March 19, 2014
Date

Isolated Wetlands:

Wetland/Stream Identification #	Geographic Center (NAD83)		Boundary Flags	Total Acreage On-Site/Linear feet	Wetland/Stream Type	Jurisdictional Determination
	Longitude	Latitude				
Wetland 5	76.13411	43.25583	W5-1 through W5-16	0.71±	Emergent Marsh (PEM)	Isolated
Wetland 6	76.13304	43.25501	W6-1 through W6-19	1.07±	Emergent Marsh (PEM)	Isolated
Wetland 7	76.13339	43.25260	W7-1 through W7-36	1.17±	Emergent Marsh (PEM)	Isolated
Wetland 8	76.13260	43.25296	W8-1 through W8-38	1.22±	Emergent Marsh (PEM)	Isolated
Wetland 9	76.13283	43.25270	W9-1 through W9-4	0.02±	Emergent Marsh (PEM)	Isolated
Wetland 10	76.13432	43.25325	W10-1 through W10-39	0.59±	Emergent Marsh (PEM)	Isolated
Wetland 11	76.13495	43.25213	W11-1 through W11-50	1.33±	Emergent Marsh (PEM)	Isolated
Wetland 12	76.13509	43.25367	W12-1 through W12-7	0.10±	Emergent Marsh (PEM)	Isolated
Wetland 13	76.13513	43.25392	W13-1 through W13-4	0.02±	Emergent Marsh (PEM)	Isolated
Wetland 14	76.13531	43.25417	W14-1 through W14-4	0.02±	Emergent Marsh (PEM)	Isolated
Wetland 15	76.13534	43.25476	W15-1 through W15-5	0.07±	Emergent Marsh (PEM)	Isolated
Wetland 16	76.13617	43.25508	W16-1 through W16-13	0.26±	Emergent Marsh (PEM)	Isolated
Wetland 17	76.13681	43.25566	W17-1 through W17-11	0.25±	Emergent Marsh (PEM)	Isolated
Wetland 18	76.13751	43.25542	W18-1 through W18-13	0.39±	Emergent Marsh (PEM)	Isolated
Wetland 19	76.13753	43.25422	W19-1 through W19-4	0.04±	Emergent Marsh (PEM)	Isolated
Total Wetland Acreage:				7.26±		