

JURISDICTIONAL DETERMINATION

Revised 8/13/04

U.S. Army Corps of Engineers

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2002-00754

PROJECT LOCATION INFORMATION:

State: New York
County: Nassau
Center coordinates of site (latitude/longitude): lat:40-41-9.9960 lon:73-39-29.9880
Approximate size of area (parcel) reviewed, including uplands: 1 acres.
Name of nearest waterway: Unnamed Wetland
Name of watershed: HEMPSTEAD BAY

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date: 6 November 2002
Site visit(s) Date(s): August 7, 2002

Jurisdictional Determination (JD):

- Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).
- Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:
 - There are* "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .
 - There are* "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.755 acres.
 - There are "isolated, non-navigable, intra-state waters or wetlands"* within the reviewed area.
 - Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

- (1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (2) The presence of interstate waters including interstate wetlands¹.
- (3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):
 - (i) which are or could be used by interstate or foreign travelers for recreational or other purposes.
 - (ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
 - (iii) which are or could be used for industrial purposes by industries in interstate commerce.
- (4) Impoundments of waters otherwise defined as waters of the US.
- (5) The presence of a tributary to a water identified in (1) - (4) above.
- (6) The presence of territorial seas.
- (7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination.*

Placement of fill material into intermittent streams and jurisdictional waters of the United States adjacent to Hempstead Bay, navigable water.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- | | |
|--|---|
| <input type="checkbox"/> Ordinary High Water Mark indicated by: | <input checked="" type="checkbox"/> High Tide Line indicated by: |
| <input type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects |
| <input type="checkbox"/> the presence of litter and debris | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input type="checkbox"/> changes in the character of soil | <input checked="" type="checkbox"/> physical markings/characteristics |
| <input type="checkbox"/> destruction of terrestrial vegetation | <input type="checkbox"/> tidal gages |
| <input type="checkbox"/> shelving | <input type="checkbox"/> other: |
| <input type="checkbox"/> other: | |

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

- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps:
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey:
 National wetlands inventory maps:
 State/Local wetland inventory maps:
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on:
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2003-00971

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-19-45.8400 lon:74-9-59.5800
Approximate size of area (parcel) reviewed, including uplands: 70.8133 acres.
Name of nearest waterway: Unnamed Tributary to the Ramapo River
Name of watershed: PASSAIC RIVER

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): October 1, 2003

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 2.47 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetlands include unnamed tributary to the Ramapo River, which flows to the Passaic River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- | | |
|---|--|
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects |
| <input checked="" type="checkbox"/> the presence of litter and debris | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input checked="" type="checkbox"/> changes in the character of soil | <input type="checkbox"/> physical markings/characteristics |
| <input checked="" type="checkbox"/> destruction of terrestrial vegetation | <input type="checkbox"/> tidal gages |
| <input type="checkbox"/> shelving | <input type="checkbox"/> other: |
| <input type="checkbox"/> other: | |

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

- Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 - Isolated, intrastate wetland with no nexus to interstate commerce.
 - Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 - Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 - Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps: Monroe, NY
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 National wetlands inventory maps: Monroe, NY
 State/Local wetland inventory maps: Monroe, NY
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on: October 1, 2003
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2003-01358

PROJECT LOCATION INFORMATION:

State: New York
County: Dutchess
Center coordinates of site (latitude/longitude): lat:41-49-0.0120 lon:73-55-36.0120
Approximate size of area (parcel) reviewed, including uplands: 277 acres.
Name of nearest waterway: Unnamed Tributary to Crum Elbow Creek
Name of watershed: HUDSON RIVER - POUGHKEEPSIE TO TROY

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): August 24, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 43.822 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include unnamed tributaries to Crum Elbow Creek, which flows to the Hudson River, which is navigable.*

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- | | |
|---|--|
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects |
| <input checked="" type="checkbox"/> the presence of litter and debris | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input checked="" type="checkbox"/> changes in the character of soil | <input type="checkbox"/> physical markings/characteristics |
| <input checked="" type="checkbox"/> destruction of terrestrial vegetation | <input type="checkbox"/> tidal gages |
| <input type="checkbox"/> shelving | <input type="checkbox"/> other: |
| <input type="checkbox"/> other: | |

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

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
 Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps: Hyde Park, NY
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey:
 National wetlands inventory maps: Hyde Park, NY
 State/Local wetland inventory maps: Hyde Park, NY
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on: 5/18/04, 5/19/04, 8/24/05
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2004-00156

PROJECT LOCATION INFORMATION:

State: New York
County: Ulster
Center coordinates of site (latitude/longitude): lat:41-42-37.6920 lon:73-58-38.7840
Approximate size of area (pareel) reviewed, including uplands: 60 acres.
Name of nearest waterway: Unnamed Tributary to Twaalfskill Creek
Name of watershed: HUDSON RIVER - POUGHKEEPSIE TO TROY

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): August 22, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area:

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 7.16 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetlands flow to unnamed tributaries to Twaalfskill Creek, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- | | |
|---|--|
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects |
| <input checked="" type="checkbox"/> the presence of litter and debris | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input type="checkbox"/> changes in the character of soil | <input type="checkbox"/> physical markings/characteristics |
| <input type="checkbox"/> destruction of terrestrial vegetation | <input type="checkbox"/> tidal gages |
| <input type="checkbox"/> shelving | <input type="checkbox"/> other: |
| <input type="checkbox"/> other: | |

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

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
 Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps: Poughkeepsie, NY
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey: Ulster County, NY
 National wetlands inventory maps: Poughkeepsie, NY
 State/Local wetland inventory maps: Poughkeepsie, NY
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on: August 22, 2005
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2004-00783

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-17-33.8280 lon:74-14-22.5960
Approximate size of area (parcel) reviewed, including uplands: 267.1 acres.
Name of nearest waterway: Trout Brook
Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): April 20, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 23.83 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetlands flow to Trout Brook, which flows to Moodna Creek, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- [X] Ordinary High Water Mark indicated by: [] High Tide Line indicated by:
 [X] clear, natural line impressed on the bank [] oil or scum line along shore objects
 [X] the presence of litter and debris [] fine shell or debris deposits (foreshore)
 [X] changes in the character of soil [] physical markings/characteristics
 [X] destruction of terrestrial vegetation [] tidal gages
 [] shelving [] other:
 [] other:

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

[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- [] The reviewed area consists entirely of uplands.
 [] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 [] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 [X] The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 [] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 [] Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 [] Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 [] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 [] Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 [X] Isolated, intrastate wetland with no nexus to interstate commerce.
 [] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 [] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 [] Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- [X] Maps, plans, plots or plat submitted by or on behalf of the applicant.
 [X] Data sheets prepared/submitted by or on behalf of the applicant.
 [] This office concurs with the delineation report, dated _____, prepared by (company):
 [] This office does not concur with the delineation report, dated _____, prepared by (company):
 [] Data sheets prepared by the Corps.
 [] Corps' navigable waters' studies:
 [] U.S. Geological Survey Hydrologic Atlas:
 [X] U.S. Geological Survey 7.5 Minute Topographic maps: Monroc, NY
 [] U.S. Geological Survey 7.5 Minute Historic quadrangles:
 [] U.S. Geological Survey 15 Minute Historic quadrangles:
 [X] USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 [X] National wetlands inventory maps: Monroc, NY
 [X] State/Local wetland inventory maps: Monroe, NY
 [X] FEMA/FIRM maps (Map Name & Date): June 4, 1996
 [] 100-year Floodplain Elevation is: _____ (NGVD)
 [] Aerial Photographs (Name & Date):
 [X] Other photographs (Date):
 [] Advanced Identification Wetland maps:
 [X] Site visit/determination conducted on: April 20, 2005
 [] Applicable/supporting case law:
 [] Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2004-01375

PROJECT LOCATION INFORMATION:

State: New York
County: Rockland
Center coordinates of site (latitude/longitude): lat:41-5-52.0080 lon:41-0-0.0000
Approximate size of area (parcel) reviewed, including uplands: 3.8 acres.
Name of nearest waterway: Pine Brook
Name of watershed: PASSAIC RIVER

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date: November 3, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 1.0 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* The wetland drains into Pine Brook, a tributary to the Passaic River which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- clear, natural line impressed on the bank oil or scum line along shore objects
- the presence of litter and debris fine shell or debris deposits (foreshore)
- changes in the character of soil physical markings/characteristics
- destruction of terrestrial vegetation tidal gages
- shelving other:
- other:
- Mean High Water Mark indicated by:
- survey to available datum; physical markings; vegetation lines/changes in vegetation types.

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by: Jay A. Greenwall, PLS, LLC

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
- Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
- Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated _____, prepared by (company):
- This office does not concur with the delineation report, dated _____, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: _____ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date): Undated
- Advanced Identification Wetland maps:
- Site visit/determination conducted on: November 3, 2005
- Applicable/supporting case law:
- Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2005-00085

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-21-23.1120 lon:74-17-16.6920
Approximate size of area (parcel) reviewed, including uplands: 18.844 acres.
Name of nearest waterway: Black Meadow Creek
Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): August 23, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 2.23 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Waters on site include Black Meadow Creek and wetlands are adjacent to Black Meadow Creek, which flows to the Otter Kill, which flows to Moodna Creek, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- [X] Ordinary High Water Mark indicated by: [] High Tide Line indicated by:
 [X] clear, natural line impressed on the bank [] oil or scum line along shore objects
 [X] the presence of litter and debris [] fine shell or debris deposits (foreshore)
 [X] changes in the character of soil [] physical markings/characteristics
 [X] destruction of terrestrial vegetation [] tidal gages
 [X] shelving [] other:
 [] other:

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

[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- [] The reviewed area consists entirely of uplands.
 [] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 [] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 [X] The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 [] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 [] Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 [] Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 [] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 [] Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 [X] Isolated, intrastate wetland with no nexus to interstate commerce.
 [] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 [] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 [] Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- [X] Maps, plans, plots or plat submitted by or on behalf of the applicant.
 [X] Data sheets prepared/submitted by or on behalf of the applicant.
 [] This office concurs with the delineation report, dated , prepared by (company):
 [] This office does not concur with the delineation report, dated , prepared by (company):
 [] Data sheets prepared by the Corps.
 [] Corps' navigable waters' studies:
 [] U.S. Geological Survey Hydrologic Atlas:
 [X] U.S. Geological Survey 7.5 Minute Topographic maps: Warwick, NY
 [] U.S. Geological Survey 7.5 Minute Historic quadrangles:
 [] U.S. Geological Survey 15 Minute Historic quadrangles:
 [X] USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 [X] National wetlands inventory maps: Warwick, NY
 [X] State/Local wetland inventory maps: Warwick, NY
 [] FEMA/FIRM maps (Map Name & Date):
 [] 100-year Floodplain Elevation is: (NGVD)
 [X] Aerial Photographs (Name & Date): 2001
 [X] Other photographs (Date):
 [] Advanced Identification Wetland maps:
 [X] Site visit/determination conducted on: August 23, 2005
 [] Applicable/supporting case law:
 [] Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2005-00542

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-25-57.4320 lon:74-22-0.3360
Approximate size of area (parcel) reviewed, including uplands: 53.3 acres.
Name of nearest waterway: Wallkill River
Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): August 23, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 0.92 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Wetlands are located within the flood plain of the Wallkill River, which flows to Rondout Creek, which flows to the Hudson River, which is navigable.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by:
 High Tide Line indicated by:
 clear, natural line impressed on the bank
 oil or scum line along shore objects
 the presence of litter and debris
 fine shell or debris deposits (foreshore)
 changes in the character of soil
 physical markings/characteristics
 destruction of terrestrial vegetation
 tidal gages
 shelving
 other:
 other:
- Mean High Water Mark indicated by:
 survey to available datum; physical markings; vegetation lines/changes in vegetation types.

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 Isolated, intrastate wetland with no nexus to interstate commerce.
 Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps: Goshen, NY
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 National wetlands inventory maps: Goshen, NY
 State/Local wetland inventory maps: Goshen, NY
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on: August 23, 2005
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2005-00639

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-34-23.9880 lon:74-1-7.0320
Approximate size of area (parcel) reviewed, including uplands: 80.28 acres.
Name of nearest waterway: Unnamed Tributary to the Hudson River
Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): August 22, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 3.27 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include unnamed tributary, which flows to the Hudson River, which is navigable.*

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- | | |
|---|--|
| <input checked="" type="checkbox"/> clear, natural line impressed on the bank | <input type="checkbox"/> oil or scum line along shore objects |
| <input checked="" type="checkbox"/> the presence of litter and debris | <input type="checkbox"/> fine shell or debris deposits (foreshore) |
| <input checked="" type="checkbox"/> changes in the character of soil | <input type="checkbox"/> physical markings/characteristics |
| <input checked="" type="checkbox"/> destruction of terrestrial vegetation | <input type="checkbox"/> tidal gages |
| <input type="checkbox"/> shelving | <input type="checkbox"/> other: |
| <input type="checkbox"/> other: | |

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

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
 Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 - Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 - Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 - Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 - Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
 Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
 Data sheets prepared/submitted by or on behalf of the applicant.
 This office concurs with the delineation report, dated _____, prepared by (company):
 This office does not concur with the delineation report, dated _____, prepared by (company):
 Data sheets prepared by the Corps.
 Corps' navigable waters' studies:
 U.S. Geological Survey Hydrologic Atlas:
 U.S. Geological Survey 7.5 Minute Topographic maps: Newburgh, NY
 U.S. Geological Survey 7.5 Minute Historic quadrangles:
 U.S. Geological Survey 15 Minute Historic quadrangles:
 USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 National wetlands inventory maps: Newburgh, NY
 State/Local wetland inventory maps: Newburgh, NY
 FEMA/FIRM maps (Map Name & Date):
 100-year Floodplain Elevation is: _____ (NGVD)
 Aerial Photographs (Name & Date):
 Other photographs (Date):
 Advanced Identification Wetland maps:
 Site visit/determination conducted on: August 22, 2005
 Applicable/supporting case law:
 Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2005-00704

PROJECT LOCATION INFORMATION:

State: New York
County: Albany
Center coordinates of site (latitude/longitude): 42-43-43, 73-47-30
Approximate size of area (parcel) reviewed, including uplands: 24.53 acres.
Name of nearest waterway: Unnamed Tributary to Shakers Creek
Name of watershed: MOHAWK RIVER

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): NOV. 4, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).
Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 5 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* All of the wetlands on site were contiguous with tributaries to Shakers Creek which flows into the Mohawk River.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- clear, natural line impressed on the bank oil or scum line along shore objects
- the presence of litter and debris fine shell or debris deposits (foreshore)
- changes in the character of soil physical markings/characteristics
- destruction of terrestrial vegetation tidal gages
- shelving other:
- other: visible flow

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

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
- Prior converted eroplant, as determined by the Natural Resources Conservation Service. Explain rationale:
- Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated _____, prepared by (company):
- This office does not concur with the delineation report, dated _____, prepared by (company):
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps:
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: _____ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on: Nov. 4, 2005
- Applicable/supporting ease law:
- Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2005-00787

PROJECT LOCATION INFORMATION:

State: New York
County: Orange
Center coordinates of site (latitude/longitude): lat:41-23-35.9880 lon:74-19-54.0120
Approximate size of area (parcel) reviewed, including uplands: 6.6 acres.
Name of nearest waterway: Unnamed Tributary to the Wallkill River
Name of watershed: HUDSON RIVER - YONKERS TO POUGHKEEPSIE

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): October 5, 2005

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: .

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 1.85 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination: Wetlands include unnamed tributary to Wallkill River, which flows to Rondout Creek, which flows to the Hudson River, which is navigable.*

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- [X] Ordinary High Water Mark indicated by: [] High Tide Line indicated by:
 [X] clear, natural line impressed on the bank [] oil or scum line along shore objects
 [X] the presence of litter and debris [] fine shell or debris deposits (foreshore)
 [X] changes in the character of soil [] physical markings/characteristics
 [] destruction of terrestrial vegetation [] tidal gages
 [] shelving [] other:
 [] other:

[] Mean High Water Mark indicated by:

- [] survey to available datum; [] physical markings; [] vegetation lines/changes in vegetation types.

[X] Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- [] The reviewed area consists entirely of uplands.
 [] Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
 [] Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
 [X] The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
 [] Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
 [] Artificially irrigated areas, which would revert to upland if the irrigation ceased.
 [] Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
 [] Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
 [] Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
 [X] Isolated, intrastate wetland with no nexus to interstate commerce.
 [] Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
 [] Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
 [] Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- [X] Maps, plans, plots or plat submitted by or on behalf of the applicant.
 [X] Data sheets prepared/submitted by or on behalf of the applicant.
 [] This office concurs with the delineation report, dated , prepared by (company):
 [] This office does not concur with the delineation report, dated , prepared by (company):
 [] Data sheets prepared by the Corps.
 [] Corps' navigable waters' studies:
 [] U.S. Geological Survey Hydrologic Atlas:
 [X] U.S. Geological Survey 7.5 Minute Topographic maps: Goshen, NY
 [] U.S. Geological Survey 7.5 Minute Historic quadrangles:
 [] U.S. Geological Survey 15 Minute Historic quadrangles:
 [X] USDA Natural Resources Conservation Service Soil Survey: Orange County, NY
 [X] National wetlands inventory maps: Goshen, NY
 [X] State/Local wetland inventory maps: Goshen, NY
 [] FEMA/FIRM maps (Map Name & Date):
 [] 100-year Floodplain Elevation is: (NGVD)
 [] Aerial Photographs (Name & Date):
 [X] Other photographs (Date):
 [] Advanced Identification Wetland maps:
 [X] Site visit/determination conducted on: October 5, 2005
 [] Applicable/supporting case law:
 [] Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.

JURISDICTIONAL DETERMINATION
U.S. Army Corps of Engineers

Revised 8/13/04

DISTRICT OFFICE: NEW YORK DISTRICT (CENAN)
FILE NUMBER: 2006-00125

PROJECT LOCATION INFORMATION:

State: New Jersey
County: Bergen
Center coordinates of site (latitude/longitude): lat:40-48-37.0080 lon:74-3-15.0120
Approximate size of area (parcel) reviewed, including uplands: 66.8 acres.
Name of nearest waterway: Hackensack River
Name of watershed: HACKENSACK RIVER

JURISDICTIONAL DETERMINATION

Completed: Desktop determination Date:
Site visit(s) Date(s): February 10, 2006

Jurisdictional Determination (JD):

Preliminary JD - Based on available information, *there appear to be* (or) *there appear to be no* "waters of the United States" and/or "navigable waters of the United States" on the project site. A preliminary JD is not appealable (Reference 33 CFR part 331).

Approved JD - An approved JD is an appealable action (Reference 33 CFR part 331).

Check all that apply:

There are "navigable waters of the United States" (as defined by 33 CFR part 329 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 66.8 acres.

There are "waters of the United States" (as defined by 33 CFR part 328 and associated guidance) within the reviewed area. Approximate size of jurisdictional area: 66.8 acres.

There are "isolated, non-navigable, intra-state waters or wetlands" within the reviewed area.

Decision supported by SWANCC/Migratory Bird Rule Information Sheet for Determination of No Jurisdiction.

BASIS OF JURISDICTIONAL DETERMINATION:

A. Waters defined under 33 CFR part 329 as "navigable waters of the United States":

The presence of waters that are subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

B. Waters defined under 33 CFR part 328.3(a) as "waters of the United States":

(1) The presence of waters, which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.

(2) The presence of interstate waters including interstate wetlands¹.

(3) The presence of other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate commerce including any such waters (check all that apply):

(i) which are or could be used by interstate or foreign travelers for recreational or other purposes.

(ii) from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

(iii) which are or could be used for industrial purposes by industries in interstate commerce.

(4) Impoundments of waters otherwise defined as waters of the US.

(5) The presence of a tributary to a water identified in (1) - (4) above.

(6) The presence of territorial seas.

(7) The presence of wetlands adjacent² to other waters of the US, except for those wetlands adjacent to other wetlands.

Rationale for the Basis of Jurisdictional Determination (applies to any boxes checked above). *If the jurisdictional water or wetland is not itself a navigable water of the United States, describe connection(s) to the downstream navigable waters. If B(1) or B(3) is used as the Basis of Jurisdiction, document navigability and/or interstate commerce connection (i.e., discuss site conditions, including why the waterbody is navigable and/or how the destruction of the waterbody could affect interstate or foreign commerce). If B(2, 4, 5 or 6) is used as the Basis of Jurisdiction, document the rationale used to make the determination. If B(7) is used as the Basis of Jurisdiction, document the rationale used to make adjacency determination:* Although tidal flow is prohibited from entering both Bashes Creek and Moonachie Creek by an existing tide gate located in the southern portion of the site, these waterways and associated wetlands (A, B, C, a portion of D, E, F and H) remain "navigable in law" in accordance with 33 CFR, Part 329.9. The remaining wetland areas (a portion of D and G) are associated with the Hackensack River.

Lateral Extent of Jurisdiction: (Reference: 33 CFR parts 328 and 329)

- Ordinary High Water Mark indicated by: High Tide Line indicated by:
- clear, natural line impressed on the bank oil or scum line along shore objects
- the presence of litter and debris fine shell or debris deposits (foreshore)
- changes in the character of soil physical markings/characteristics
- destruction of terrestrial vegetation tidal gages
- shelving other:
- other:

Mean High Water Mark indicated by:

- survey to available datum; physical markings; vegetation lines/changes in vegetation types.

Wetland boundaries, as shown on the attached wetland delineation map and/or in a delineation report prepared by:

Basis For Not Asserting Jurisdiction:

- The reviewed area consists entirely of uplands.
- Unable to confirm the presence of waters in 33 CFR part 328(a)(1, 2, or 4-7).
- Headquarters declined to approve jurisdiction on the basis of 33 CFR part 328.3(a)(3).
- The Corps has made a case-specific determination that the following waters present on the site are not Waters of the United States:
- Waste treatment systems, including treatment ponds or lagoons, pursuant to 33 CFR part 328.3.
- Artificially irrigated areas, which would revert to upland if the irrigation ceased.
- Artificial lakes and ponds created by excavating and/or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing.
- Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating and/or diking dry land to retain water for primarily aesthetic reasons.
- Water-filled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States found at 33 CFR 328.3(a).
- Isolated, intrastate wetland with no nexus to interstate commerce.
- Prior converted cropland, as determined by the Natural Resources Conservation Service. Explain rationale:
- Non-tidal drainage or irrigation ditches excavated on dry land. Explain rationale:
- Other (explain):

DATA REVIEWED FOR JURISDICTIONAL DETERMINATION (mark all that apply):

- Maps, plans, plots or plat submitted by or on behalf of the applicant.
- Data sheets prepared/submitted by or on behalf of the applicant.
- This office concurs with the delineation report, dated February 27, 2006, prepared by (company): The Louis Berger Group, Inc.
- This office does not concur with the delineation report, dated _____, prepared by (company): _____
- Data sheets prepared by the Corps.
- Corps' navigable waters' studies:
- U.S. Geological Survey Hydrologic Atlas:
- U.S. Geological Survey 7.5 Minute Topographic maps: Weehawken
- U.S. Geological Survey 7.5 Minute Historic quadrangles:
- U.S. Geological Survey 15 Minute Historic quadrangles:
- USDA Natural Resources Conservation Service Soil Survey:
- National wetlands inventory maps:
- State/Local wetland inventory maps:
- FEMA/FIRM maps (Map Name & Date):
- 100-year Floodplain Elevation is: _____ (NGVD)
- Aerial Photographs (Name & Date):
- Other photographs (Date):
- Advanced Identification Wetland maps:
- Site visit/determination conducted on: February 10, 2006
- Applicable/supporting case law:
- Other information (please specify):

¹Wetlands are identified and delineated using the methods and criteria established in the Corps Wetland Delineation Manual (87 Manual) (i.e., occurrence of hydrophytic vegetation, hydric soils and wetland hydrology).

²The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the U.S. by man-made dikes or barriers, natural river berms, beach dunes, and the like are also adjacent.