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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 09-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District; NAN-2007-00051-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: NY - New York
County/parish/borough: Rensselaer
City: North Greenbush
Lat: 42.67393
Long: -73.69725
Universal Transverse Mercator: Folder UTM List
  UTM list determined by folder location
  • NAD83 / UTM zone 18N
Waters UTM List
  UTM list determined by waters location
  • NAD83 / UTM zone 18N

Name of nearest waterbody:
Name of nearest Traditional Navigable Water (TNW): Hudson River
Name of watershed or Hydrologic Unit Code (HUC): Middle Hudson

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
Check if other sites (e.g. offsite mitigation sites, disposal sites, etc.) are associated with the action and are recorded on a different JD form.

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date:
Field Determination Date(s): 23-Aug-2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "Navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. OWA SECTION 404 DETERMINATION OF JURISDICTION

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area:

   Water Name: Wetland 2 (SWANCC 1 and 2a), 2007-951
   Water Type(s) Present: Isolated (interstate or intrastate) waters, including isolated wetlands

   b. Identify (estimate) size of waters of the U.S. in the review area:
      Area: (m²)
      Linear: (m)

   c. Limits (boundaries) of jurisdiction:

based on:
OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:  
Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain: There are two isolated emergent wetlands, SWANCC Wetlands 1 and 2a, within the property boundary, totaling 0.44 acres. The closest of these wetlands to jurisdictional waters is SWANCC Wetland 2a, which is located approximately 100 linear feet from the nearest jurisdictional wetland, Wetland 1, to the east. The area between this isolated wetland and the water of the United States contains upland vegetation and upland soils, along with no hydrological indicators. Both wetlands are surrounded by upland vegetation and upland soils, and fail to show any hydrological connection to any jurisdictional wetland. There are no man-made or natural discrete and/or confined surface water connection between either of the wetlands and any jurisdictional water of the United States. None of the wetlands are located within a mapped 100-year flood plain. Therefore, during times of heavy precipitation, there is very low probability that floodwater would reach an elevation necessary for water to flow from other jurisdictional waters into the subject wetlands. None of the wetlands would be considered a traditional navigable water in that they do not have the necessary water depth to support navigation of any kind, and they don't have any surface hydrologic connection to a waterbody that would. The wetlands do not cross any state boundary and do not have a use that would associate them with interstate commerce.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
   Not Applicable.

2. Wetland Adjacent to TNW
   Not Applicable.

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

1. Characteristics of non-TNWs that flow directly or indirectly into TNW
   (i) General Area Conditions:
      Watershed size:
      Drainage area:
      Average annual rainfall: inches
      Average annual snowfall: inches

   (ii) Physical Characteristics
      (a) Relationship with TNW:
         Tributary flows directly into TNW.
         Tributary flows through [ ] tributaries before entering TNW.
         Number of tributaries
         Project waters are river miles from TNW.
         Project waters are river miles from RPW.
         Project Waters are aerial (straight) miles from TNW.
         Project waters are aerial (straight) miles from RPW.
         Project waters cross or serve as state boundaries.
   Explain:
   Identify flow route to TNW.  

   Tributary Stream Order, if known:
   Not Applicable.

   (b) General Tributary Characteristics:
   Tributary is:
   Not Applicable.
   Tributary properties with respect to top of bank (estimate):
   Not Applicable.
Primary tributary substrato composition:
Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
Not Applicable.

(c) Flow:
Not Applicable.

Surface Flow is:
Not Applicable.

Subsurface Flow:
Not Applicable.

Tributary has:
Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
Not Applicable.

Mean High Water Mark indicated by:
Not Applicable.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iv) Biological Characteristics. Channel supports:
Not Applicable.

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

(i) Physical Characteristics:
(a) General Wetland Characteristics:
Properties:
Not Applicable.

(b) General Flow Relationship with Non-TNW:
Flow is:
Not Applicable.

Surface flow is:
Not Applicable.

Subsurface flow:
Not Applicable.

(c) Wetland Adjacency Determination with Non-TNW:
Not Applicable.

(d) Proximity (Relationship) to TNW:
Not Applicable.

(ii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Not Applicable.

(iii) Biological Characteristics. Wetland supports:
Not Applicable.
3. Characteristics of all wetlands adjacent to the tributary (if any):

All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS: THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:
Wetland 2 (SWANCC 1 and 2a), 2007-951

Identify water body and summarize rationale supporting determination:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Adjacent To TNW Rationale</th>
<th>TNW Rationale</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2 (SWANCC 1 and 2a), 2007-951</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional waters in the review area:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2 (SWANCC 1 and 2a), 2007-951</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1780.61664</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>1780.61664</td>
</tr>
</tbody>
</table>

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:

- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR):
  - Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland 2 (SWANCC 1 and 2a), 2007-951</td>
<td>Isolated (interstate or intrastate) waters, including isolated wetlands</td>
<td>-</td>
<td>1780.61664</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>1780.61664</td>
</tr>
</tbody>
</table>

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.

Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(Listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed | Source Label | Source Description
--- | --- | ---
Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant | Wetland Delineation Map | "Updated JD Wetland Map, October 2012, Phase IIIA, excluding Lot 6", prepared by Bagdon Environmental, dated October 2, 2012. and last revised December 27, 2012
Data sheets prepared/submitted by or on behalf of the applicant/consultant | - | -
Office concurs with data sheets/delineation report | - | -
U.S. Geological Survey map(s). | - | -
USDA Natural Resources Conservation Service Soil Survey. | Rensselaer County Soil Survey | -
Photographs | - | -
Aerial | - | -
B. ADDITIONAL COMMENTS TO SUPPORT JD:

No! Applicable.

1. Boxes checked below shall be supported by completing the appropriate sections in Section III below.

2. For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

3. Supporting documentation is presented in Section III.F.

4. Note that the Instructions Guidebook contains additional information regarding avoios, ditches, washes, and erosional features generally in the arid West.

5. Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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

7. Ibid.

8. See Footnote #3.

9. To complete the analysis refer to the key in Section III D 6 of the Instructional Guidebook.

10. Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 09-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NYU2007-00057, JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: NY - New York
County/parish/borough: Rensselaer
City: North Greenbush
Lat: 42°07'33"
Long: -73°49'42"

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW): Hudson River
Name of watershed or Hydrologic Unit Code (HUC): Middle Hudson

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office: JD Determination
File JD Determination Dated: 23-Aug-2012

SECTION I: BACKGROUND INFORMATION

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "Navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Waters subject to the ebb and flow of the tides:

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.
   a. Identify presence of waters of the U.S. in review area:

   Water Body: Water Expanding Horizon

   Stream 1, 2007-951 Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs

   Wetland 1, 2007-951 Wetlands directly sourcing WPWs that flow directly or indirectly into TNWs

   b. Identify (estimate) size of waters of the U.S. in the review area:

   Area: (mi2)
   Linear: (mi)

   c. Limits (boundaries) of jurisdiction:

   based on:
   OHRM Elevation: (ft)

   2. Non-regulated waters/wetlands:

   Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

SECTION II: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW

   NRU Applicable

2. Wetland Adjacent to TNW

   Not Applicable

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

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

   (i) General Area Conditions:
   Watershed size:
   Drainage area:
   Average annual rainfall: inches
Average annual snowfall: inches

(iii) Physical Characteristics

(a) Relationship with TNW.

   Tributary flows directly into TNW.
   Tributary flows through [ ] tributaries before entering TNW.

   Number of tributaries

   Project waters are [ ] miles from TNW.
   Project waters are [ ] miles from HPW.
   Project Waters are [ ] miles from TNW.
   Project waters are [ ] miles from HPW.

   Project waters cross or serve as state boundaries.

(b) General Tributary Characteristics:

   Tributary is:

   Tributary Name: Natural Suburban Forest Associated Region

   Stream 1, 2007-951 X X

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

   Tributary Name: Velocity Depth Width Slope

   Stream 1, 2007-951 X X

   Primary tributary substrate composition:

   Tributary Name: Sedimentary Glacial Limestone Bedrock Vegetation Other

   Stream 1, 2007-951 X

   Tributary (conditions, stability, presence, geometry, gradient):

   Tributary Name: Contamination Distribution Complex Geomorphology

   Stream 1, 2007-951 X Meandering

   (e) Flow:

   Tributary Name: Percent Event Flow Percent Runoff Percent Precipitation

   Stream 1, 2007-951 Percent flow

   Surface Flow Is:

   Tributary Name: Surface Flow Characteristics

   Stream 1, 2007-951

   Subsurface Flow:

   Tributary Name: Subsurface Flow Flow Pathway Dye or other Test

   Stream 1, 2007-951

   Tributary Has:

   Tributary Name: Bed & Bank OHWM Discontinuing OHWM Explain

   Stream 1, 2007-951 X

   Tributaries with OHWM [ ] (as indicated above):

   Tributary Name: OHWM Clear Litter Contaminants Sediment Vegetation Substrate Velocity Water Level Municipal Inflow Other

   Stream 1, 2007-951 X X X

   If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

   High Tide Line indicated by:

   Not Applicable

   Mean High Water Mark indicated by:

   Not Applicable

   (iii) Chemical Characteristics:

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

   Tributary Name: Estimate Identify specific pollutants if known

   Stream 1, 2007-951

https://orm.usace.army.mil/orm2/?p=106:34:35904659285665::NO:: 1/9/2013
(iv) Biological Characteristics. Channel supports:

- Ecological Function: Support Habitat Restoration
- Wetland Fringe Characteristics: Unobstructed View
- Wetland Habitat: Floodplain

Stream 1, 2007-951

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:
- Properties:
  - Wetland Name: Stream 1
  - Wetland Type: Floodplain
  - Wetland Quality: Poor
  - Cause of Poor Rating: Excessive Salinity

Wetland 1, 2007-951
- PFO

(ii) General Flow Relationship with Non-TWIs:

- Flow is: Not Applicable

Surface Flow:
- Wetland Name: Stream 1
- Flow Continuation: Yes

Wetland 1, 2007-951

Subsurface Flow:
- Wetland Name: Stream 1
- Flow Continuation: Yes

Wetland 1, 2007-951

(e) Wetland Adjacency Determination with Non-TWIs:

- Wetland Name: Stream 1
- Property Settings: Unobstructed View
- Ecological Function: Support Habitat Restoration
- Wetland Habitat: Floodplain

Wetland 1, 2007-951

(ii) Chemical Characteristics:
- Characterize Tributary (e.g., water color is clear, dechlorinated, oily film; water quality: general watershed characteristics, etc.).

- Wetland Name: Stream 1
- Flow Continuation: Yes

Wetland 1, 2007-951

(b) Proximity (Relationship) to TWIs:

- Wetland Name: Stream 1
- Flow Continuation: Yes
- Wetland to navigable waters: Yes

Wetland 1, 2007-951

(iii) Biological Characteristics. Wetland supports:

- Ecological Function: Support Habitat Restoration
- Wetland Habitat: Floodplain

Wetland 1, 2007-951

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

All wetlands being considered in the cumulative analysis:
Net Applicable

Summary: Overall biological, chemical and physical functions being performed:
Net Applicable

1. HISTORICAL RXNS OF FORMATION

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they signif.

2. Determinations of Jurisdictional Findings: The Subject Waters/Wetlands Are:

1. TNWIs and Adjacent Wetlands:

Net Applicable

2. RPWIs that flow directly or indirectly into TNWIs:

- Wetland Name: Stream 1
- Flow Continuation: Perennial

Stream 1, 2007-951

Provide estimates for jurisdictional waters in the review area:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear ft)</th>
<th>Size (acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1, 2007-951</td>
<td>Relatively Permanent Waters (RPWs) that flow directly or indirectly into TWIs</td>
<td>568</td>
<td>462</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>568</td>
<td>462</td>
</tr>
</tbody>
</table>

https://orm.usace.army.mil/orm2/?p=106:34:35904659285665::NO:: 1/9/2013
3. Non-RPWs that flow directly or indirectly into TNW

Not Applicable

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNW

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNW

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNW

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

7. Impoundments of jurisdictional waters

Not Applicable.

8. ISOLATED (INTERSTATE OR INTRA-STATE) WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE

Identify water body and summarize rationale supporting determination:

Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable.

9. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (e. g., presence of migratory birds, presence of endangered or threatened species, and agricultural or other water uses)

Not Applicable.

A. SUPPORTING DATA

Data Reviewed:

Source Label: "Updated JD Wetland Map 03/01/2012, Phase B, excluding Lot 6, Ronsewier Technology Park", prepared by Dade October 9, 2012, and last revised December 27, 2012

B. ADDITIONAL COMMENTS TO SUPPORT JD

Not Applicable.
1. Items checked below shall be annotated by completing the appropriate sections in Section III below.

2. For purposes of this form, a [H[2][A]](2) is defined as a water body that is not a THW and that typically flows year-round or has continuous flow at least seasonally (e.g., typically 2 months).

3. Supporting documentation shall be presented in Section III.

4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and unusual features generally not in the and Wash.

5. Flow route can be described by identifying, e.g., Table A, which flow through the review area, in particular, the river is select from where to TWH.

6. A regulated or non-natural stream in the OAHM does not necessarily make the jurisdiction to e.g., where the stream historically flowed underground, or where the OAHM has been removed for development of agricultural practices. Where there is a loss the waterbody’s flow regime (e.g., flow over a rock system or through a culvert), the agencies will look for indications of flow above and below the break.

7. end

8. See Table #2.

9. To complete the checklist refer to the key in Section II D.5 of the Instructional Guidebook.

10. Prior to writing or declining SWMP jurisdiction based solely on this category, General District will submit the action to Corps and EPA, HQ (to review consistent with the process described in the Corps/EPW Memorandum Regulating SWMP Assessment).
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 09-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAD27E-00501-J23

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: NY - New York
County/Parish/Borough: Rensselaer
City: North Greenbush
Lat: 42.87333
Long: -73.60276

Name of nearest waterbody:

Name of nearest Traditional Navigable Water (TNW): Hudson River

Name of watershed or Hydrological Unit Code (HUC): Middle Hudson

D. REVIEW PERFORMED FOR SITE EVALUATION:

Office Determination Date: 23-Aug-2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "Navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

Vessels subject to the ebb and flow of the tide

Vessels are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION

There "Waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.
   a. Indicate presence of waters of U.S. in review area.1

      (input text)
      (input type(s) of water)
      Stream 2, 2007-051
      Relatively Permanent Waters (RPW) that flow directly or indirectly into TNWs

2. Identify (quantify) size of waters of the U.S. in the review area:

   Area: (input)
   Linear: (input)

3. Limits (boundaries) of jurisdiction:
   based on:
   CWAW Width: (of known)

C. Non-regulated waters/wetlands:

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

SECTION III: JUDICIAL ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
   Not Applicable

2. Wetland Adjacent to TNW
   Not Applicable

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

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

   General Area Conditions:
   Watershed size: 1531913 acres
   Drainage area: 6.8 acres
   Average annual rainfall: 38.6 inches
   Average annual snowfall: 6.9 inches

(ii) Physical Characteristics
(a) Relationship with TMW:

- Tributary flows directly into TMW.
- Tributary flows through well-defined tributaries before entering TMW.

Number of tributaries:

- Project waters are less than 1 river mile from TMW.
- Project waters are 1 to 10 river miles from TMW.
- Project waters are 1 to 10 river miles from TMW.
- Project waters are 1 to 10 river miles from TMW.
- Project waters are 1 to 10 river miles from TMW.

Project waters cross or serve as state boundaries.

(b) General Tributary Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Width</th>
<th>Depth</th>
<th>Flow Speed</th>
<th>Water Quality</th>
<th>Sediment Transport</th>
<th>Vegetation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(c) Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Flow Regime</th>
<th>Duration &amp; Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td>Intermittent but not seasonally flow</td>
<td>20 (or greater)</td>
</tr>
</tbody>
</table>

Surface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Surface Flow Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td></td>
</tr>
</tbody>
</table>

Subsurface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Subsurface Flow Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td></td>
</tr>
</tbody>
</table>

Tributary has:

- Tributary Name | Bed & Banks | GHWM | Discontinuous | Explain |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Tributaries with GHWM (as indicated above):

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>GHWM</th>
<th>Clear</th>
<th>Letter</th>
<th>Changes in Bed</th>
<th>Deposition</th>
<th>Vegetation</th>
<th>Sediment Transport</th>
<th>Vegetation</th>
<th>Sediment Sorting</th>
<th>Lead Letter</th>
<th>Snow</th>
<th>Subsurface Deposition</th>
<th>Flow Erosion</th>
<th>WD</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If factors other than the GHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
- Not Applicable.

Mean High Water Mark indicated by:
- Not Applicable.

(iii) Chemical Characteristics:

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Explain</th>
<th>Identity specific, if known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW

(a) Physical Characteristics:

Flow is:
Not Applicable

Surface flow is:
Not Applicable

Subsurface flow:
Not Applicable

(b) General Wetland Characteristics:

(i) General Wetland Characteristics:
Not Applicable

(c) Wetland Adjacency Determination with Non-TNW:

Not Applicable

(d) Proximity (Relationship) to TNW:

Not Applicable

(e) Chemical Characteristics:

Characteristics tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.):
Not Applicable

(f) Biological Characteristics. Wetlands supports:

Not Applicable

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

All wetlands being considered in the cumulative analysis:
Not Applicable

Summary overall biological, chemical and physical functions being performed:
Not Applicable

B. SIGNIFICANT N Reach Determination

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

Findings for Stream 2, 2007-951:
Seasonal RPW's flow for greater than 3 consecutive months, and have direct, continuous hydrological connection to perennial RPW.

IV. DETERMINE ZONE OF JURISDICTIONAL PRIORITY. THE SUBJECT WATERS/ WETLANDS ARE:

1. TNWs and Adjacent Wetlands:

Not Applicable

2. RPWs that flow directly or indirectly into TNWs:

Stream 2, 2007-951 SEASONAL Seasonal RPW's flow for greater than 3 consecutive months

Provide estimates for jurisdictional waters in the review area:

<table>
<thead>
<tr>
<th>Stream Name</th>
<th>Season</th>
<th>Flow Type</th>
<th>Note</th>
<th>Size (Linear) (mi)</th>
<th>Size (Area) (ac)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2, 2007-951</td>
<td></td>
<td></td>
<td></td>
<td>400.956</td>
<td>409.154</td>
</tr>
</tbody>
</table>

3. Non-RPWs that flow directly or indirectly into TNWs:

Not Applicable

Provide estimates for jurisdictional waters in the review area:

Not Applicable

4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs:

Not Applicable

Provide acreage estimates for jurisdictional wetlands in the review area:

Not Applicable

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:

Not Applicable

https://orm.usace.army.mil/orm2/?p=106:34:35904659285665::NO:: 1/9/2013
Provide acreage estimates for jurisdictional wetlands in the review area: Not Applicable.

6. Wetlands adjacent to non-RPUs that flow directly or indirectly into TNWs: Not Applicable.

Provide estimates for jurisdictional wetlands in the review area: Not Applicable.


F. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE; WATERS: See Section III.F.3.a(1)(c).

Identify water body and summarize rationale supporting determination: Not Applicable.

Provide estimates for jurisdictional waters in the review area: Not Applicable.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS:

If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplement. Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.

Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based solely on the "Navigability Test Rule" (NPR). Waters do not meet the "significant nexus" standard, where such a finding is required for jurisdiction (Explain):

Other (Explain)

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered or threatened species), using best professional judgment: Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "significant nexus" standard, where such a finding is required for jurisdiction: Not Applicable.

SECTION IV. DATA SOURCES:

A. SUPPORTING DATA: Data reviewed for JD:

Other forms shall be included in copies filed with the District or requested, appropriately reference below:

<table>
<thead>
<tr>
<th>EXPLANATION</th>
<th>SOURCE DATA</th>
<th>DETAILS DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Maps, plans, plots or plans submitted by or on behalf of the applicant/consultant</td>
<td>Wetland Delineation Map</td>
<td>&quot;Updated JD Wetland Map October 2012, Phase IIA, excluding Lot 6, Roswell Technology Park&quot;, prepared by JD dated October 2, 2012, and last revised December 27, 2012</td>
</tr>
<tr>
<td>- Data sheets prepared/signed by or on behalf of the applicant/consultant</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- Office copies with data sheets/delineation report</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- U.S. Geological Survey maps(s)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- USDA Natural Resources Conservation Service Soil Survey</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- National wetlands inventory maps(s)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- States/local wetland inventory map(s)</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- Photographs</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>- Other</td>
<td>dated 10-8-07</td>
<td></td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable