SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2012-01234-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

- State: NY - New York
- County/parish/borough: Putnam
- City: Garrison
- Lat: 41.3484
- Long: -73.955

- Universal Transverse Mercator:
  - Folder UTM List
  - NAD83 / UTM zone 18N

- Name of nearest waterbody: Unnamed tributary to Hudson River
- Name of nearest Traditional Navigable Water (TNW): Hudson River

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office Determination Date: 
- Field Determination Date(s): 29-Nov-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.

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:
      | Water Name | Water Type(s) Present |
      | Stream 1 | Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs |
      | Wetland A | Wetlands directly abutting RPWs that flow directly or indirectly into TNWs |
      | Wetland B | Wetlands directly abutting RPWs that flow directly or indirectly into TNWs |
      | Wetland C | Wetlands directly abutting RPWs that flow directly or indirectly into TNWs |

   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:

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
   - General Area Conditions:
     - Watershed size:
     - Drainage area:
     - Average annual rainfall: inches
     - Average annual snowfall: inches

   - Physical Characteristics:
     - Relationship with TNW:
       - Tributary flows directly into TNW
       - Tributary flows through [ ] tributaries before entering TNW
     - Number of tributaries
     - Project waters: river miles from TNW:
     - Project waters: aerial (straight) miles from TNW:
     - Project waters: river miles from RPW:
     - Project Waters: aerial (straight) miles from RPW:
     - Project waters cross or serve as state boundaries.
     - Identify flow route to TNW:
### Tributary Stream Order, if known:

<table>
<thead>
<tr>
<th>Order</th>
<th>Tributary Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Stream 1</td>
</tr>
</tbody>
</table>

### (b) General Tributary Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Natural</th>
<th>Artificial</th>
<th>Explain</th>
<th>Manipulated</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Width (ft)</th>
<th>Depth (ft)</th>
<th>Side Slopes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>10</td>
<td>2</td>
<td>3:1</td>
</tr>
</tbody>
</table>

Primary tributary substrate composition:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Silt</th>
<th>Sand</th>
<th>Concrete</th>
<th>Cobble</th>
<th>Gravel</th>
<th>Muck</th>
<th>Bedrock</th>
<th>Vegetation</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Condition</th>
<th>Stability</th>
<th>Run</th>
<th>Riffle</th>
<th>Pool</th>
<th>Complexes</th>
<th>Geometry</th>
<th>Gradient (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>Relatively stable.</td>
<td>None</td>
<td>Relatively straight</td>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### (c) Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Provides for Events Per Year</th>
<th>Flow Regime</th>
<th>Duration &amp; Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>Perennial flow</td>
<td>20 (or greater)</td>
<td>-</td>
</tr>
</tbody>
</table>

Surface Flow is:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Surface Flow Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>Discrete and confined</td>
</tr>
</tbody>
</table>

### Subsurface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Subsurface Flow Explain Findings</th>
<th>Dye (or other) Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Tributary has:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Bed &amp; Banks</th>
<th>OHWM</th>
<th>Discontinuous OHWM</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
</tbody>
</table>

Tributaries with OHWM:

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.).

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Explain</th>
<th>Identify specific pollutants, if known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>Water color clear</td>
<td>-</td>
</tr>
</tbody>
</table>

### (iv) Biological Characteristics:

Channel supports:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Riparian Corridor Characteristics</th>
<th>Wetland Fringe</th>
<th>Characteristics</th>
<th>Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>X</td>
</tr>
</tbody>
</table>

Habitat for:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Habitat</th>
<th>Federally Listed Species</th>
<th>Explain Findings</th>
<th>Fish/Spawn Areas</th>
<th>Explain Findings</th>
<th>Other Environmentally Sensitive Species</th>
<th>Explain Findings</th>
<th>Aquatic/Wildlife Diversity</th>
<th>Explain Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 1</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

#### (i) Physical Characteristics:

- **(a) General Wetland Characteristics:**

  Properties:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Size (Acres)</th>
<th>Wetland Type</th>
<th>Wetland Quality</th>
<th>Cross or Serve as State Boundaries. Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>.01</td>
<td>Forested</td>
<td>Good</td>
<td>No</td>
</tr>
<tr>
<td>Wetland B</td>
<td>.02</td>
<td>Forested</td>
<td>Good</td>
<td>No</td>
</tr>
<tr>
<td>Wetland C</td>
<td>.04</td>
<td>Forested</td>
<td>Good</td>
<td>No</td>
</tr>
</tbody>
</table>

  **(b) General Flow Relationship with Non-TNW:**

  Flow is:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Perennial flow</td>
</tr>
<tr>
<td>Wetland B</td>
<td>Perennial flow</td>
</tr>
<tr>
<td>Wetland C</td>
<td>Perennial flow</td>
</tr>
</tbody>
</table>

  Surface flow is:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow Characteristics</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Overland sheetflow</td>
</tr>
<tr>
<td>Wetland B</td>
<td>Overland sheetflow</td>
</tr>
<tr>
<td>Wetland C</td>
<td>Overland sheetflow</td>
</tr>
</tbody>
</table>

  **Subsurface Flow:**

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Subsurface Flow Explain Findings</th>
<th>Dye (or other) Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Wetland B</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Wetland C</td>
<td>-</td>
<td></td>
</tr>
</tbody>
</table>

  **(c) Wetland Adjacency Determination with Non-TNW:**

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Directly Abutting</th>
<th>Discrete Wetland Hydrologic Connection</th>
<th>Ecological Connection</th>
<th>Separated by Berm/Barrier</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Yes</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
Provide acreage estimates for jurisdictional wetlands in the review area:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) [m]</th>
<th>Size (Area) [m²]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Wetlands directly abutting RWPs that flow directly or indirectly into TNWs</td>
<td>40.25771352</td>
<td></td>
</tr>
<tr>
<td>Wetland B</td>
<td>Wetlands directly abutting RWPs that flow directly or indirectly into TNWs</td>
<td>65.31083712</td>
<td></td>
</tr>
<tr>
<td>Wetland C</td>
<td>Wetlands directly abutting RWPs that flow directly or indirectly into TNWs</td>
<td>14.15713024</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>155.72537102</td>
<td></td>
</tr>
</tbody>
</table>

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:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) [m]</th>
<th>Size (Area) [m²]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>40.25771352</td>
</tr>
<tr>
<td>Wetland B</td>
<td>Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>65.31083712</td>
</tr>
<tr>
<td>Wetland C</td>
<td>Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs</td>
<td>-</td>
<td>14.15713024</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>-</td>
<td>155.72537102</td>
</tr>
</tbody>
</table>

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

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

7. Impoundments of jurisdictional waters:
Not Applicable.

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

9. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
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 to determine if they significantly affect the chemical, physical, and 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 JURISDCTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

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

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

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

3. Characteristics of all wetlands adjacent to the tributary (if any):
All wetlands being considered in the cumulative analysis:
Not Applicable.

Summary:
Not Applicable.

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

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Flow</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>PERENNIAL</td>
<td>Aerial photography, the Peekskill, NY USGS quadrangle map, field observations and annual rainfall of 43.6 inches, indicate that the stream flows all year.</td>
</tr>
</tbody>
</table>

Provide estimates for jurisdictional wetlands in the review area:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Size (Linear) [m]</th>
<th>Size (Area) [m²]</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland A</td>
<td>140.556171352</td>
<td></td>
</tr>
<tr>
<td>Wetland B</td>
<td>14.15713024</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>154.71330159</td>
<td></td>
</tr>
</tbody>
</table>

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

Provide 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.

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

Provide estimates for jurisdictional waters in the review area:
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:

Not Applicable.

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 Supplements:

- 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:

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

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maps, plans, plots or plot submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Data sheets prepared/submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Office concurs with data sheets/delineation report</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>U.S. Geological Survey map(s)</td>
<td>Peakskill, NY</td>
<td>-</td>
</tr>
<tr>
<td>Photographs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Aerial</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not 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.
4-Supporting documentation is presented in Section III.
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-Ibid.
7-See Footnote #3.
8-To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
9-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.
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.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2012-01234-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: NY - New York
County/parish/borough: Putnam
City: Garrison
Lat: 41.3484
Long: -73.955

UTM list determined by folder location
NAD83 / UTM zone 18N

Universal Transverse Mercator Folder UTM List

UTM list determined by waters location
NAD83 / UTM zone 18N

Name of nearest waterbody: Unnamed tributary to Hudson River
Name of nearest Traditional Navigable Water (TNW): Hudson River

Name of watershed or Hydrologic Unit Code (HUC): 02020008

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): 29-Nov-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. 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:

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>Relatively Permanent Waters (RPWs) that flow directly or indirectly into TNWs</td>
</tr>
</tbody>
</table>

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

Area: [m²]
Linear: [m]

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:

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:

Identify flow route to TNW: [ ]
### Tributary Stream Order, if known:

<table>
<thead>
<tr>
<th>Order</th>
<th>Tributary Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Stream 2</td>
</tr>
</tbody>
</table>

### General Tributary Characteristics:

#### Tributary:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Natural</th>
<th>Artificial</th>
<th>Explain</th>
<th>Manipulated</th>
<th>Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Width (ft)</th>
<th>Depth (ft)</th>
<th>Side Slopes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>8</td>
<td>2</td>
<td>2:1</td>
</tr>
</tbody>
</table>

#### Primary tributary substrate composition:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Silt</th>
<th>Sands</th>
<th>Concrete</th>
<th>Cobble</th>
<th>Gravel</th>
<th>Muck</th>
<th>Bedrock</th>
<th>Vegetation</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>X</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Condition/Stability</th>
<th>Run/Riffle/Pool Complexes</th>
<th>Geometry</th>
<th>Gradient (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>Relatively stable</td>
<td>None</td>
<td>Relatively straight</td>
<td>10</td>
</tr>
</tbody>
</table>

### Flow:

#### Tributary Name:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Provides for Events Per Year</th>
<th>Flow Regime</th>
<th>Duration &amp; Volume</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>Perennial flow 20 (or greater)</td>
<td>-</td>
<td>-</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</td>
<td>Discrete and confined</td>
</tr>
</tbody>
</table>

### Subsurface Flow:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Subsurface Flow Explain Findings</th>
<th>Dye (or other) Test</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

#### Tributary has:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Bed &amp; Banks OHWM Discontinuous OHWM? Explain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>X</td>
</tr>
</tbody>
</table>

### 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.

### Chemical Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Explain Identify specific pollutants, if known</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>Water color clear</td>
</tr>
</tbody>
</table>

### Biological Characteristics:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Riparian Corridor Characteristics Wetland Fringe Characteristics Habitat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>X</td>
</tr>
</tbody>
</table>

### Habitat:

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Federally Listed Species Explain Findings Fish/Spawn Areas Explain Findings Other Environmentally Sensitive Species Explain Findings Aquatic/Wildlife Diversity Explain Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>X</td>
</tr>
</tbody>
</table>

### Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW:

- **Physical Characteristics**
  - **General Wetland Characteristics:**
    - Properties: Not Applicable.
  
- **Flow to Non-TNW:**
  - Flow to: Not Applicable.
  
- **Surface flow:**
  - Not Applicable.
  
- **Subsurface flow:**
  - Not Applicable.
  
- **Wetland Adjacency Determination with Non-TNW:**
  - Not Applicable.

- **Proximity (Relationship) to TNW:**
  - Not Applicable.

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

- **Biological Characteristics:**
  - Wetland supports: Not Applicable.

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

<table>
<thead>
<tr>
<th>Tributary Name</th>
<th>Habitat</th>
<th>Federally Listed Species</th>
<th>Explain Findings</th>
<th>Fish/Spawn Areas</th>
<th>Explain Findings</th>
<th>Other Environmentally Sensitive Species</th>
<th>Explain Findings</th>
<th>Aquatic/Wildlife Diversity</th>
<th>Explain Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>X</td>
<td>X</td>
<td>-</td>
<td>X</td>
<td>-</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td>-</td>
</tr>
</tbody>
</table>

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

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.

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Flow Explain</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stream 2</td>
<td>PERENNIAL</td>
<td>Aerial photography, the Peekskill, NY USGS quadrangle map, field observations and annual rainfall of 43.6 inches, indicate that the stream flows all year.</td>
<td>26.5176</td>
<td>-</td>
</tr>
</tbody>
</table>

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

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

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

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

7. Impoundments of jurisdictional waters:
   - Not Applicable.

8. 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:
   - Not Applicable.

9. 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 wetlands 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):

10. 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:
    - Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Data sheets prepared/submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Office concurs with data sheets/delineation report</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>U.S. Geological Survey maps</td>
<td>Peakskill, NY</td>
<td>-</td>
</tr>
<tr>
<td>Photographs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Aerial</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Other</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

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 B.
4. Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5. Flow rate can be described by identifying, e.g., tributary s, 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 OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices); Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over...
a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

7 Ibid.

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 MD for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.
SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 14-Jan-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2012-01234-JD3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : NY - New York
County/parish/borough: Putnam
City: Garrison
Lat: 41.3484
Long: -73.955
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:
Unnamed tributary to Hudson River

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

Name of watershed or Hydrologic Unit Code (HUC): 02020008

☐ 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): 29-Nov-2012

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There are "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: Waters within the project boundary are tidally-influenced wetlands, at the same elevation as the Mean High Water mark of the Hudson River.

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

<table>
<thead>
<tr>
<th>Water Name</th>
<th>Water Type(s) Present</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland D</td>
<td>Wetlands adjacent to TNWs</td>
</tr>
</tbody>
</table>

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: 3
Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional. Explain:

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

1. TNW
   Not Applicable.

2. Wetland Adjacent to TNW
<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Summarize rationale supporting conclusion that wetland is “adjacent”:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland D</td>
<td>Wetland D is located at and below the Mean High Water line of the Hudson River and is affected by the ebb and flow of the tide. Wetland D continues off the project boundary, flowing directly into the Hudson River.</td>
</tr>
</tbody>
</table>

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

Significant Nexus: Not Applicable
### D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

<table>
<thead>
<tr>
<th>Wetland Name</th>
<th>Type</th>
<th>Size (Linear) (m)</th>
<th>Size (Area) (m²)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wetland D</td>
<td>Wetlands adjacent to TNWs</td>
<td>-</td>
<td>206.2447488</td>
</tr>
<tr>
<td>Total:</td>
<td></td>
<td>0</td>
<td>206.2447488</td>
</tr>
</tbody>
</table>

1. **TNWs and Adjacent Wetlands:**

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

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

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

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

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:**
   - 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:

- 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 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:

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

<table>
<thead>
<tr>
<th>Data Reviewed</th>
<th>Source Label</th>
<th>Source Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--Data sheets prepared/submitted by or on behalf of the applicant/consultant</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>----Office concurs with data sheets/delineation report</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>--U.S. Geological Survey map(s).</td>
<td>Peekskill, NY</td>
<td>-</td>
</tr>
<tr>
<td>--Photographs</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>----Aerial</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>----Other</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not 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 Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
5. Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.
6. A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.
7. Ibid.
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.