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

SECTION I: BACKGROUND INFORMATION

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

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2013-00861-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :	NY - New York
County/parish/borough:	Richmond
City:	Staten Island
Lat:	40.622386
Long:	-74.191751
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:	Arthur Kill, Old Place Creek, Merrills Creek, Pralls River
Name of nearest Traditional Navigable Water (TNW):	Arthur Kill
Name of watershed or Hydrologic Unit Code (HUC):	02030104

☑ 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: 08-Jul-2013

☐ Field Determination Date(s): ☐

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: Arthur Kill/Pralls River/Merrills Creek are traditional navigable waterways subject to the ebb and flow of the tide.

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]

Water Name	Water Type(s) Present
Tidal Wetland 10	Wetlands adjacent to TNWs
Tidal Wetland 8	Wetlands adjacent to TNWs
Tidal Wetland 9	Wetlands adjacent to TNWs
Water 2	TNWs, including territorial seas

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

Area: 174014 (m²)
Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: 1987 Delineation Manual.
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

TNW Name	Summarize rationale supporting determination:
Water 2	Arthur Kill is a traditional navigable waterway subject to the ebb and flow of the tide.

2. Wetland Adjacent to TNW

Wetland Name	Summarize rationale supporting conclusion that wetland is "adjacent":
Tidal Wetland 10	tidal wetland adjacent to TWN
Tidal Wetland 8	Tidal wetland adjacent to TNW
Tidal Wetland 9	Tidal Wetland adjacent to TNW

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:[5]

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:

1. TNWs and Adjacent Wetlands:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m²)
Tidal Wetland 10	Wetlands adjacent to TNWs	-	25130.97576
Tidal Wetland 8	Wetlands adjacent to TNWs	-	98298.13224
Tidal Wetland 9	Wetlands adjacent to TNWs	-	52690.06512
Water 2	TNWs, including territorial seas	1524	-
Total:		**1524**	**176119.17312**

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:[8]
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:[9]
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:[10]
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:

☐ 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 soley 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 (ie., 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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Sketch Prepared by Control Point Associates	dated 10-31-2005 and last revised 8-30-06
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	Final EcolSciences Wetland Investigative Report	Revised June 6, 2006 Wetland delineation report.
----Office concurs with data sheets/delineation report	-	Office generally concurs with report, with some minor exceptions.
--National wetlands inventory map(s).	-	USFWS Mapper
--State/Local wetland inventory map(s):	-	NYSDEC Mapper
--Photographs	-	-
----Aerial	Google Earth.	-
----Other	Site photos submitted by applicant.	photos taken 2006 and 2012.
--Previous determination(s).	JD Dated September 29, 2006	-

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.

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

SECTION I: BACKGROUND INFORMATION

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

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2013-00861-JD3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State :	NY - New York
County/parish/borough:	Richmond
City:	Staten Island
Lat:	40.622386
Long:	-74.191751
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:	Arthur Kill, Old Place Creek, Merrills Creek, Pralls River
Name of nearest Traditional Navigable Water (TNW):	Arthur Kill
Name of watershed or Hydrologic Unit Code (HUC):	02030104

☑ 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: 25-Sep-2013

☐ Field Determination Date(s): ☐

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: Old Place Creek is a traditional navigable water subject to the ebb and flow of the tide.

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]

Water Name	Water Type(s) Present
Tidal Wetland 1	Wetlands adjacent to TNWs
Tidal Wetland 2	Wetlands adjacent to TNWs
Tidal Wetland 3	Wetlands adjacent to TNWs
Tidal Wetland 4	Wetlands adjacent to TNWs
Tidal Wetland 5	Wetlands adjacent to TNWs
Tidal Wetland 6	Wetlands adjacent to TNWs
Water 1	TNWs, including territorial seas

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

Area: 93077 (m²)
Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: Established by mean(average) high waters.
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

TNW Name	Summarize rationale supporting determination:
Water 1	Old Place Creek is a traditional navigable waterway subject to the ebb and flow of the tide.

2. Wetland Adjacent to TNW

Wetland Name	Summarize rationale supporting conclusion that wetland is "adjacent":
Tidal Wetland 1	Tidal wetland adjacent to TNW
Tidal Wetland 2	tidal wetland adjacent to TNW
Tidal Wetland 3	Tidal wetland adjacent to TNW
Tidal Wetland 4	Tidal wetland adjacent to TNW
Tidal Wetland 5	Tidal Wetland adjacent to TNW
Tidal Wetland 6	Tidal wetland adjacent to TNW

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:[5]

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:

1. TNWs and Adjacent Wetlands:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m^2)
Tidal Wetland 1	Wetlands adjacent to TNWs	-	67461.08952
Tidal Wetland 2	Wetlands adjacent to TNWs	-	9226.83168
Tidal Wetland 3	Wetlands adjacent to TNWs	-	6434.50104
Tidal Wetland 4	Wetlands adjacent to TNWs	-	2509.05072
Tidal Wetland 5	Wetlands adjacent to TNWs	-	1011.714
Tidal Wetland 6	Wetlands adjacent to TNWs	-	5058.57
Water 1	TNWs, including territorial seas	1828.8	-
Total:		**1828.8**	**91701.75696**

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:[8]
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:[9]
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:[10]
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:

☐ 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 soley 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 (ie., 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):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	Wetland Sketch Prepared by Control Point Associates	dated 10-31-2005 and last revised 8-30-06
--Data sheets prepared/submitted by or on behalf of the applicant/consultant	Final EcolSciences Wetland Investigative Report	Revised June 6, 2006. Wetland Delineation Report.
----Office concurs with data sheets/delineation report	-	Office generally concurs with report, with some minor exceptions.
--National wetlands inventory map(s).	-	From USFWS Mapper
--State/Local wetland inventory map(s):	-	From NYSDEC Mapper

--Photographs	-	-
----Aerial	Google Earth	-
----Other	-	-
--Previous determination(s).	JD dated September 29, 2006	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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[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.

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

SECTION I: BACKGROUND INFORMATION

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

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2013-00861-JD4

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : NY - New York
County/parish/borough: Richmond
City: Staten Island
Lat: 40.622386
Long: -74.191751
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: Arthur Kill, Old Place Creek, Merrills Creek, Pralls River
Name of nearest Traditional Navigable Water (TNW): Arthur Kill
Name of watershed or Hydrologic Unit Code (HUC): 02030104

☑ 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: 25-Sep-2013
☐ Field Determination Date(s): ☐

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:[1]

Water Name	Water Type(s) Present
Freshwater Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 10	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 11	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 12	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 13	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 14	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 15	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 16	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 17	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 18	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 19	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 20	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 21	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 22	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 23	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 3	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 30	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 31	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 32	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 36	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 37	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 6	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 7	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 8	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
Freshwater Wetland 9	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: 687965 (m²)
Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on: 1987 Delineation Manual.
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

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:[5]

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:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Freshwater Wetland 1	.59	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 10	4.13	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 11	1.26	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 12	20.64	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 13	18.43	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 14	.06	Reedgrass/purple loosestrife marsh.	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 15	1.58	Shallow emergent marsh with broad-leaved cattail and purple loosestrife.	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 16	.43	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 17	1.05	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 18	1.32	Dredge spoil wetland	The wetland appears to provide some wildlife habitata and also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 19	53.27	Dredge spoil wetland	The wetland appears to provide some wildlife habitat and also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 2	8.21	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 20	.75	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 21	.02	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 22	7.49	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-

Freshwater Wetland 23	.25	Dredge spoil wetland	The wetland appears to provide some habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 3	4.08	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 30	2.84	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 31	.41	Dredge spoil wetland	The wetland appears to provide some wildlife habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 32	1.56	Dredge spoil wetland	The wetland appears to provide some wildlife habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 36	2.39	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 37	.97	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 4	.23	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 5	9.41	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 6	22.38	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 7	19.66	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 8	.06	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-
Freshwater Wetland 9	7.08	Reedgrass/purple loosestrife marsh	The wetland appears to provide moderate wildlife and songbird habitat. The wetland also likely provides stormwater attenuation and groundwater storage.	-

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

Wetland Name	Flow	Explain
Freshwater Wetland 1	Intermittent flow.	-
Freshwater Wetland 10	Intermittent flow.	-
Freshwater Wetland 11	Intermittent flow.	-
Freshwater Wetland 12	Intermittent flow.	-
Freshwater Wetland 13	Intermittent flow.	-
Freshwater Wetland 14	Intermittent flow.	-
Freshwater Wetland 15	Intermittent flow.	-
Freshwater Wetland 16	Intermittent flow.	-
Freshwater Wetland 17	Intermittent flow.	-
Freshwater Wetland 18	Intermittent flow.	-
Freshwater Wetland 19	Intermittent flow.	-
Freshwater Wetland 2	Intermittent flow.	-
Freshwater Wetland 20	Intermittent flow.	-
Freshwater Wetland 21	Intermittent flow.	-
Freshwater Wetland 22	Intermittent flow.	-
Freshwater Wetland 23	Intermittent flow.	-
Freshwater Wetland 3	Intermittent flow.	-
Freshwater Wetland 30	Intermittent flow.	-
Freshwater Wetland 31	Intermittent flow.	-
Freshwater Wetland 32	Intermittent flow.	-
Freshwater Wetland 36	Intermittent flow.	-
Freshwater Wetland 37	Intermittent flow.	-
Freshwater Wetland 4	Intermittent flow.	-
Freshwater Wetland 5	Intermittent flow.	-
Freshwater Wetland 6	Intermittent flow.	-
Freshwater Wetland 7	Intermittent flow.	-
Freshwater Wetland 8	Intermittent flow.	-
Freshwater Wetland 9	Intermittent flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
Freshwater Wetland 1	Discrete and confined	-
Freshwater Wetland 10	Discrete and confined	-
Freshwater Wetland 11	Discrete and confined	-
Freshwater Wetland 12	Discrete and confined	-
Freshwater Wetland 13	Discrete and confined	-
Freshwater Wetland 14	Discrete and confined	-
Freshwater Wetland 15	Discrete and confined	-
Freshwater Wetland 16	Discrete and confined	-
Freshwater Wetland 17	Discrete and confined	-
Freshwater Wetland 18	Discrete and confined	-
Freshwater Wetland 19	Discrete and confined	-
Freshwater Wetland 2	Discrete and confined	-
Freshwater Wetland 20	Discrete and confined	-
Freshwater Wetland 21	Discrete and confined	-
Freshwater Wetland 22	Discrete and confined	-
Freshwater Wetland 23	Discrete and confined	-
Freshwater Wetland 3	Discrete and confined	-
Freshwater Wetland 30	Discrete and confined	-
Freshwater Wetland 31	Discrete and confined	-
Freshwater Wetland 32	Discrete and confined	-
Freshwater Wetland 36	Discrete and confined	-
Freshwater Wetland 37	Discrete and confined	-
Freshwater Wetland 4	Discrete and confined	-
Freshwater Wetland 5	Discrete and confined	-
Freshwater Wetland 6	Discrete and confined	-
Freshwater Wetland 7	Discrete and confined	-
Freshwater Wetland 8	Discrete and confined	-
Freshwater Wetland 9	Discrete and confined	-

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Freshwater Wetland 1	Unknown	-	-
Freshwater Wetland 10	Unknown	-	-
Freshwater Wetland 11	Unknown	-	-
Freshwater Wetland 12	Unknown	-	-
Freshwater Wetland 13	Unknown	-	-
Freshwater Wetland 14	Unknown	-	-

Freshwater Wetland 15	Unknown	-	-
Freshwater Wetland 16	Unknown	-	-
Freshwater Wetland 17	Unknown	-	-
Freshwater Wetland 18	Unknown	-	-
Freshwater Wetland 19	Unknown	-	-
Freshwater Wetland 2	Unknown	-	-
Freshwater Wetland 20	Unknown	-	-
Freshwater Wetland 21	Unknown	-	-
Freshwater Wetland 22	Unknown	-	-
Freshwater Wetland 23	Unknown	-	-
Freshwater Wetland 3	Unknown	-	-
Freshwater Wetland 30	Unknown	-	-
Freshwater Wetland 31	Unknown	-	-
Freshwater Wetland 32	Unknown	-	-
Freshwater Wetland 36	Unknown	-	-
Freshwater Wetland 37	Unknown	-	-
Freshwater Wetland 4	Unknown	-	-
Freshwater Wetland 5	Unknown	-	-
Freshwater Wetland 6	Unknown	-	-
Freshwater Wetland 7	Unknown	-	-
Freshwater Wetland 8	Unknown	-	-
Freshwater Wetland 9	Unknown	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Freshwater Wetland 1	Yes	-	-	-
Freshwater Wetland 10	Yes	-	-	-
Freshwater Wetland 11	Yes	-	-	-
Freshwater Wetland 12	Yes	-	-	-
Freshwater Wetland 13	Yes	-	-	-
Freshwater Wetland 14	Yes	-	-	-
Freshwater Wetland 15	Yes	-	-	-
Freshwater Wetland 16	Yes	-	-	-
Freshwater Wetland 17	Yes	-	-	-
Freshwater Wetland 18	Yes	-	-	-
Freshwater Wetland 19	Yes	-	-	-
Freshwater Wetland 2	Yes	-	-	-
Freshwater Wetland 20	Yes	-	-	-
Freshwater Wetland 21	Yes	-	-	-
Freshwater Wetland 22	Yes	-	-	-
Freshwater Wetland 23	Yes	-	-	-
Freshwater Wetland 3	Yes	-	-	-
Freshwater Wetland 30	Yes	-	-	-
Freshwater Wetland 31	Yes	-	-	-
Freshwater Wetland 32	Yes	-	-	-
Freshwater Wetland 36	Yes	-	-	-
Freshwater Wetland 37	Yes	-	-	-
Freshwater Wetland 4	Yes	-	-	-
Freshwater Wetland 5	Yes	-	-	-
Freshwater Wetland 6	Yes	-	-	-
Freshwater Wetland 7	Yes	-	-	-
Freshwater Wetland 8	Yes	-	-	-
Freshwater Wetland 9	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Freshwater Wetland 1	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 10	1 (or less)	1 (or less)	Wetland to navigable waters	-
Freshwater Wetland 11	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 12	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 13	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 14	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 15	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 16	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 17	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 18	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 19	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 2	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 20	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 21	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 22	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 23	1 (or less)	1 (or less)	Wetland to navigable waters	20 - 50-year
Freshwater Wetland 3	1 (or less)	1 (or less)	Wetland to navigable waters	20 - 50-year
Freshwater Wetland 30	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 31	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 32	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 36	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 37	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 4	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 5	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 6	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 7	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 8	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year
Freshwater Wetland 9	1 (or less)	1 (or less)	Wetland to navigable waters	50 - 100-year

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

Wetland Name	Explain	Identify specific pollutants, if known
Freshwater Wetland 1	-	Site is polluted from prior industrial use.
Freshwater Wetland 10	-	Site is polluted from previous industrial activity.
Freshwater Wetland 11	-	Site is polluted from prior industrial use.
Freshwater Wetland 12	-	Site is polluted from previous industrial activity.
Freshwater Wetland 13	-	Site is polluted from prior industrial activity.

Freshwater Wetland 14	-	Site is polluted from previous industrial activity.
Freshwater Wetland 15	-	Site is polluted from previous industrial activity.
Freshwater Wetland 16	-	Site is polluted from previous industrial activity.
Freshwater Wetland 17	-	Site is polluted from prior industrial use.
Freshwater Wetland 18	-	Site is polluted from prior industrial use.
Freshwater Wetland 19	-	Site is pollluted from previous industrial use.
Freshwater Wetland 2	-	Site is polluted from previous industrial activity.
Freshwater Wetland 20	-	Site polluted from prior industrual use
Freshwater Wetland 21	-	Site polluted from prior industrial use.
Freshwater Wetland 22	-	Site is polluted from prior industrial use.
Freshwater Wetland 23	-	Site polluted from prior industrial use
Freshwater Wetland 3	-	Site is polluted from previous industrial actvity.
Freshwater Wetland 30	-	Site is polluted from prior industrial use.
Freshwater Wetland 31	-	Site polluted from prior industrual use
Freshwater Wetland 32	-	Site is polluted from prior industrial use.
Freshwater Wetland 36	-	Site is polluted from prior industrial use.
Freshwater Wetland 37	-	Site is polluted from prior industrial use.
Freshwater Wetland 4	-	Site is polluted from previous industrial activity.
Freshwater Wetland 5	-	Site is polluted from previous industrial activity.
Freshwater Wetland 6	-	Site is polluted from previous industrial activity.
Freshwater Wetland 7	-	Site is polluted from previous industrial activity.
Freshwater Wetland 8	-	Site is polluted from prior industrial use.
Freshwater Wetland 9	-	Site is polluted from previous industrial activity.

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Freshwater Wetland 1	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 10	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 11	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 12	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 13	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 14	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 15	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 16	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 17	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 18	-	-	X	Common reed, evening primrose, Japanese knotweed, scattered small trees.
Freshwater Wetland 19	-	-	X	Common reed with Japanese knotweed and grasses. Scattered small trees are also present.
Freshwater Wetland 2	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 20	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 21	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 22	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 23	-	-	X	Common reed with evening primose, Japanese knotweed and grasses. Scattered small trees are also present.
Freshwater Wetland 3	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 30	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 31	-	-	X	Common reed with Japanese knotweed and grasses. Also scattered small trees.
Freshwater Wetland 32	-	-	X	Common reed with Japanese knotweed and grasses. Also scattered small trees.
Freshwater Wetland 36	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 37	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 4	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 5	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 6	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 7	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 8	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.
Freshwater Wetland 9	-	-	X	Reedgrass/purple loosestrife marsh with switchgrass, small trees and woody shrubs.

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic\Wildlife Diversity	Explain Findings
Freshwater Wetland 1	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 10	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 11	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 12	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 13	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 14	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 15	X	-	-	-	-	-	-	X	Evidence of wildlife activty observed on the site.
Freshwater Wetland 16	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 17	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 18	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 19	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 2	X	-	-	-	-	-	-	X	Evidence of wildlife activity was observed on the site.
Freshwater Wetland 20	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 21	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 22	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 23	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 3	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 30	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 31	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 32	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 36	X	-	-	-	-	-	-	X	Reedgrass/purpleloosestrife marsh with switchgrass, small trees and woody shrubs.

Freshwater Wetland 37	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 4	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 5	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 6	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 7	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 8	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.
Freshwater Wetland 9	X	-	-	-	-	-	-	X	Evidence of wildlife usage was observed throughout the site.

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:

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:[8]
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.

Wetland Name	Flow	Explain
Freshwater Wetland 1	PERENNIAL	-
Freshwater Wetland 11	PERENNIAL	-
Freshwater Wetland 12	PERENNIAL	-
Freshwater Wetland 13	PERENNIAL	-
Freshwater Wetland 14	PERENNIAL	-
Freshwater Wetland 15	PERENNIAL	-
Freshwater Wetland 16	PERENNIAL	-
Freshwater Wetland 17	PERENNIAL	-
Freshwater Wetland 18	PERENNIAL	-
Freshwater Wetland 19	PERENNIAL	-
Freshwater Wetland 2	PERENNIAL	-
Freshwater Wetland 20	PERENNIAL	-
Freshwater Wetland 21	PERENNIAL	-
Freshwater Wetland 22	PERENNIAL	-
Freshwater Wetland 23	PERENNIAL	-
Freshwater Wetland 3	PERENNIAL	-
Freshwater Wetland 30	PERENNIAL	-
Freshwater Wetland 31	PERENNIAL	-
Freshwater Wetland 32	PERENNIAL	-
Freshwater Wetland 36	PERENNIAL	-
Freshwater Wetland 37	PERENNIAL	-
Freshwater Wetland 4	PERENNIAL	-
Freshwater Wetland 5	PERENNIAL	-
Freshwater Wetland 6	PERENNIAL	-
Freshwater Wetland 7	PERENNIAL	-
Freshwater Wetland 8	PERENNIAL	-
Freshwater Wetland 9	PERENNIAL	-

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m²)
Freshwater Wetland 1	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	2387.64504
Freshwater Wetland 10	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	16713.51528
Freshwater Wetland 11	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	5099.03856
Freshwater Wetland 12	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	83527.10784
Freshwater Wetland 13	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	74583.55608
Freshwater Wetland 14	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	242.81136
Freshwater Wetland 15	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	6394.03248
Freshwater Wetland 16	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	1740.14808
Freshwater Wetland 17	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	4249.1988
Freshwater Wetland 18	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	5341.84992
Freshwater Wetland 19	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	215576.01912
Freshwater Wetland 2	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	33224.68776
Freshwater Wetland 20	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	3035.142
Freshwater Wetland 21	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	80.93712
Freshwater Wetland 22	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	30310.95144
Freshwater Wetland 23	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	1011.714
Freshwater Wetland 3	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	16511.17248

Freshwater Wetland 30	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	11493.07104
Freshwater Wetland 31	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	1659.21096
Freshwater Wetland 32	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	6313.09536
Freshwater Wetland 36	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	9671.98584
Freshwater Wetland 37	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	3925.45032
Freshwater Wetland 4	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	930.77688
Freshwater Wetland 5	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	38080.91496
Freshwater Wetland 6	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	90568.63728
Freshwater Wetland 7	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	79561.18896
Freshwater Wetland 8	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	242.81136
Freshwater Wetland 9	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	28651.74048
Total:		**0**	**771128.4108**

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:[9]
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:[10]
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:
- ☐ 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 soley 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 (ie., 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):
Not Applicable.

B. ADDITIONAL COMMENTS TO SUPPORT JD:
Not Applicable.

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[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.

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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): August 9, 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: NYD, 380 Development LLC, NAN-2013-00861-EHA, FW-25 through FW 29, and FW 33 through FW 35

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:NY County/parish/borough: Richmond City: Staten Island
Center coordinates of site (lat/long in degree decimal format): Lat. 40.620802° **N**, Long. -74.197414° **W**.
Universal Transverse Mercator:
Name of nearest waterbody: Pralls River, Arthur Kill
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Pralls River, Arthur Kill
Name of watershed or Hydrologic Unit Code (HUC): 02030104

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

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

☒ Office (Desk) Determination. Date: August 9, 2013
☐ Field Determination. Date(s):

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]

☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.
Explain: .

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There **Are no** "*waters of the U.S.*" within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [*Required*]

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): [1]

☐ TNWs, including territorial seas
☐ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: acres.

c. Limits (boundaries) of jurisdiction based on: **Pick List**

Elevation of established OHWM (if known): .

2. Non-regulated waters/wetlands (check if applicable):[3]

☒ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
Explain: **Wetlands FW-25, FW-26, FW-27, FW-28, FW-29, FW-33, FW-34, and FW-35 are isolated. The wetlands**

[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.

range in distance from 20 feet to FW-19 (water of the U.S. that discharges to Pralls Creek) to 520 feet to TW-8 (adjacent to Arthur Kill). These wetlands do not have any apparent hydrologic connection, overland flow routes, or culverts.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.

1. TNW
Identify TNW: .

Summarize rationale supporting determination: .

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": .

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

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are "relatively permanent waters" (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody[4] is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

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

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

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☐ Tributary flows through **Pick List** tributaries before entering TNW.

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

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

[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.

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

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain: .
☐ Manipulated (man-altered). Explain: .

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

Primary tributary substrate composition (check all that apply):

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

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

(c) Flow:
Tributary provides for: **Pick List**
Estimate average number of flow events in review area/year: **Pick List**
Describe flow regime: .
Other information on duration and volume: .

Surface flow is: **Pick List.** Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .
☐ Dye (or other) test performed: .

Tributary has (check all that apply):
☐ Bed and banks
☐ OHWM[6] (check all indicators that apply):

☐ clear, natural line impressed on the bank	☐ the presence of litter and debris
☐ changes in the character of soil	☐ destruction of terrestrial vegetation
☐ shelving	☐ the presence of wrack line
☐ vegetation matted down, bent, or absent	☐ sediment sorting
☐ leaf litter disturbed or washed away	☐ scour
☐ sediment deposition	☐ multiple observed or predicted flow events
☐ water staining	☐ abrupt change in plant community
☐ other (list):	

☐ Discontinuous OHWM.[7] Explain: .

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):

☐ High Tide Line indicated by:	☐ Mean High Water Mark indicated by:
☐ oil or scum line along shore objects	☐ survey to available datum;
☐ fine shell or debris deposits (foreshore)	☐ physical markings;
☐ physical markings/characteristics	☐ vegetation lines/changes in vegetation types.
☐ tidal gauges	
☐ other (list):	

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain: .
Identify specific pollutants, if known: .

[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.

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

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

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain: .

Wetland quality. Explain: .

Project wetlands cross or serve as state boundaries. Explain: .

(b) General Flow Relationship with Non-TNW:

Flow is: **Pick List**. Explain: .

Surface flow is**: Pick List**

Characteristics: .

Subsurface flow: **Pick List**. Explain findings: .

- ☐ Dye (or other) test performed: .

(c) Wetland Adjacency Determination with Non-TNW:

- ☐ Directly abutting
- ☐ Not directly abutting
  - ☐ Discrete wetland hydrologic connection. Explain: .
  - ☐ Ecological connection. Explain: .
  - ☐ Separated by berm/barrier. Explain: .

(d) Proximity (Relationship) to TNW

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List.**

Estimate approximate location of wetland as within the **Pick List** floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: .

Identify specific pollutants, if known: .

(iii) Biological Characteristics. Wetland supports (check all that apply):

- ☐ Riparian buffer. Characteristics (type, average width): .
- ☐ Vegetation type/percent cover. Explain: .
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings: .
  - ☐ Fish/spawn areas. Explain findings: .
  - ☐ Other environmentally-sensitive species. Explain findings: .
  - ☐ Aquatic/wildlife diversity. Explain findings: .

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

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately ( ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed: .

C. SIGNIFICANT NEXUS DETERMINATION

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

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☐ Wetlands adjacent to TNWs: acres.

2. **RPWs that flow directly or indirectly into TNWs.**
   - ☐ Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .
   - ☐ Tributaries of TNW where tributaries have continuous flow "seasonally" (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally: .

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**
☐ Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .

4. **Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**
☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW: .

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

5. **Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**
☐ Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisidictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area: acres.

6. **Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**
☐ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: acres.

7. **Impoundments of jurisdictional waters.[9]**
As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.
☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]
☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain: .
☐ Other factors. Explain: .

Identify water body and summarize rationale supporting determination: .

[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.*

Provide estimates for jurisdictional waters in the review area (check all that apply):
☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters: .
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):
☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☒ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☒ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain: .
☒ Other: (explain, if not covered above): **Wetlands FW-25 (0.02 acre), FW-26 (0.23 acre), FW-27 (0.18 acre), FW-28 (0.08 acre), FW-29 (0.28 acre), FW-33 (0.52 acre), FW-34 (0.06 acre) and FW-35 (0.12 acre) present on the site were determined not to be jurisdictional because they are isolated. The wetlands showed no hydrologic connection to any waters of the U.S. These wetlands range in elevation from approximately 4.5 feet to 7.5 feet (Staten Island Highway Datum) and are separated from waters of the U.S. by higher elevation areas ranging from approximately 5 feet to 12 feet. These wetland areas do not appear on the U.S. Fish and Wildlife NWI Maps. There are no features which are or could be used by interstate or foreign travelers for recreational or other purposes, there are no areas from which fish or shellfish can be or are taken and sold in interstate or foreign commerce, and which are or could be used for industrial purpose by industries in interstate commerce. Consequently, there does not appear to be a reasonable nexus with interstate commerce. Also, the use, degradation or loss of these wetlands will not affect other waters of the U.S. or affect interstate or foreign commerce.**

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):
☐ Non-wetland waters (i.e., rivers, streams): linear feet, width (ft).
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource: .
☐ Wetlands: acres.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):
☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: .
☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
☒ Office concurs with data sheets/delineation report.
☐ Office does not concur with data sheets/delineation report.
☐ Data sheets prepared by the Corps: .
☐ Corps navigable waters' study: .
☐ U.S. Geological Survey Hydrologic Atlas: .
☐ USGS NHD data.
☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: .
☐ USDA Natural Resources Conservation Service Soil Survey. Citation: .
☐ National wetlands inventory map(s). Cite name: .
☐ State/Local wetland inventory map(s): .
☐ FEMA/FIRM maps: .
☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): .
or ☒ Other (Name & Date): .
☐ Previous determination(s). File no. and date of response letter: .

- ☐ Applicable/supporting case law: .
- ☐ Applicable/supporting scientific literature: .
- ☐ Other information (please specify): .

B. ADDITIONAL COMMENTS TO SUPPORT JD: .