



**U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE**

**I. ADMINISTRATIVE INFORMATION**

Completion Date of Approved Jurisdictional Determination (AJD): 4/9/2021

ORM Number: NAN-2020-00925-ESW

Associated JDs: NAN-2012-01352-ESP

Review Area Location<sup>1</sup>: State/Territory: NJ City: Carteret County/Parish/Borough: Middlesex County

Center Coordinates of Review Area: Latitude 40.596294 Longitude -74.211147

**II. FINDINGS**

**A. Summary:** Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

**B. Rivers and Harbors Act of 1899 Section 10 (§ 10)<sup>2</sup>**

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
Rahway River	2.28	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	The Rahway River is a tidally influenced (subject to the ebb and flow of the tide) navigable waterbody that includes a high tide line along the boundary of the review area
Deep Creek	3.91	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Deep Creek is a tidally influenced (subject to the ebb and flow of the tide) navigable waterbody that includes a high tide line along the boundary of the review area
Cross Creek	0.58	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Cross Creek is a tidally influenced (subject to the ebb and flow of the tide) navigable waterbody that includes a high tide line along the boundary of the review area

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
Rahway River	2.28	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and	The Rahway River is a tidally influenced (subject to the ebb and flow of the tide) navigable waterbody that includes a high tide line along the boundary of the review area.

<sup>1</sup> Map(s)/figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

<sup>3</sup> A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Territorial Seas and Traditional Navigable Waters ((a)(1) waters): <sup>3</sup>				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
			Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Deep Creek	3.91	acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Deep Creek is a tributary of Rahway River and is a tidally influenced perennial relatively permanent water that directly contributes surface water flow to Rahway River in a typical year. The Tributary shows physical indicators of beds and banks.
Cross Creek	0.58	acre(s)	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Cross Creek is a tributary of Rahway River and is a tidally influenced perennial relatively permanent water that directly contributes surface water flow to Rahway River in a typical year. The Tributary shows physical indicators of beds and banks.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
WB	.002	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WB is an Estuarine wetland in and within 150-feet of the southwestern portions of the site that directly abuts a tributary to Cross Creek a relatively permanent water (RPW). Wetland vegetation consists of <i>Spartina alterniflora</i> .
WC	15.61	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WC is an Estuarine wetland located along the perimeter of the site between the tidal waters of the Rahway River, a traditional navigable water, Cross Creek, a relatively permanent water, Deep Creek, a relatively permanent water, and their unnamed tributaries, and the toe-of-slope of the man-made berm which surrounded the Rahway Arch remediation site and Soil Safe Metro 12 Class B soil recycling facility. The wetland area consists of <i>Spartina alterniflora</i> and <i>Phragmites australis</i>



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
WD	0.05	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WD is an Estuarine wetland located in the southeastern portion of site within Block 602, Lot 1, it directly abuts a tributary to Deep Creek. The wetland possesses hydrophytic vegetation, hydric soils, and wetland hydrology.
WY	1.54	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WY is an Estuarine wetland which were adjacent to tributaries of Cross Creek. The wetland consists of <i>Spartina patens</i> , <i>Spartina alterniflora</i> , and <i>Solidago sempervirens</i> .
WZ	0.36	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland WZ is an Estuarine wetland which were adjacent to tributaries of Cross Creek. The wetland consists of <i>Phragmites australis</i> and <i>Spartina alterniflora</i> .
SZ	12.25	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland SZ Estuarine wetland located in the eastern portion of the site that directly abuts the Rahway River and Deep Creek.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.	N/A.

**III. SUPPORTING INFORMATION**

**A. Select/enter all resources** that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

- Information submitted by, or on behalf of, the applicant/consultant: [CHI Acquisitions\\_Final\\_ALD\\_20200826.pdf](#), August 26, 2020, [Bor-9, Jurisdictional\\_Waters\\_Rev20201102, Jurisdictional\\_Waters\\_Upland\\_Island, WETLAND & OPEN WATER BOUNDARY PLANS 8.5x11 \(4\), WETLAND & OPEN WATER BOUNDARY PLANS 30x42 \(1\), November 13, 2020, Final Response Package\\_10\\_26\\_2020](#), October 26, 2020, [Wetland Delineation Report\\_11-13-2020, Rahway USACE JD Ltr 10242013](#),

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: 10\\_28\\_2020 Site Visit Photos, CHI ACQUISITIONS\\_FINAL\\_AJD\\_20200826, Jurisdictional\\_Waters\\_Rev20201102, Jurisdictional\\_Waters\\_Upland\\_Island, WETLAND & OPEN WATER BOUNDARY PLANS 8.5x11 \(4\), WETLAND & OPEN WATER BOUNDARY PLANS 30x42 \(1\), and V-SURV-WETL-V-1-WETLAND & OPEN WATER BOUNDARY PLAN \(2\)](#)
- Corps site visit(s) conducted on: [October 28, 2020](#)

<sup>4</sup> Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

<sup>5</sup> Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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- Previous Jurisdictional Determinations (AJDs or PJDs): [NAN-2012-01352-ESP](#)
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [Figure 4: NWI Map dated 4/22/2020](#)
- USGS topographic maps: [Figure 1: USGS Quadrangle Map dated 4/22/2020](#)

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="#">N/A.</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">N/A.</a>

**B. Typical year assessment(s):** [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

**C. Additional comments to support AJD:** [N/A or provide additional discussion as appropriate.](#)