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): June 4, 2018
C. PROJECT LOCATION AND BACKGROUND INFORMATION:
- State: Connecticut
- County/parish/borough: New Haven
- City: Seymour
- Center coordinates of site (lat/long in degree decimal format): Lat. 41.349445° N, Long. 73.126992° W.
- Universal Transverse Mercator: 656691.516928, 4579242.310254
- Name of nearest waterbody: Housatonic River
- Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Housatonic River
- Name of watershed or Hydrologic Unit Code (HUC): Halfway River—Housatonic River
- 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: May 3, 2018
- Field Determination. Date(s): April 24, 2018

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 “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 (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 0.27 acres.
      Wetlands: 0.23 acres.

   c. Limits (boundaries) of jurisdiction based on: Established by OHWM.
      Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable): 2
   - Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
   Explain:

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

Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

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:  
- Average depth:  
- Average side slopes: 2:1.  

Primary tributary substrate composition (check all that apply):

- Silts  
- Sands  
- Cobble  
- Gravel  
- 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  
  - changes in the character of soil  
  - shelving  
  - vegetation matted down, bent, or absent  
  - leaf litter disturbed or washed away  
  - sediment deposition  
  - water staining  
  - 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  
  - fine shell or debris deposits (foreshore)  
  - physical markings/characteristics  
  - 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:  

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\(^6\)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
   - 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: 3
   Approximately (_______) acres in total are being considered in the cumulative analysis.
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: N/A.

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: N/A.

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: N/A.

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: Waterway A is a perennial tributary that flows directly into the Housatonic River, a TNW, about 50-75
feet off-site via a culvert below Roosevelt Drive (State Route 34). Waterway A has an OHWM that is evidenced by the presence of a bed and banks, changes in soil characteristics, sediment deposition, scour, changes in plant community composition and observed flow patterns. The watercourse is also visible on aerial imagery dating back several years and taken throughout multiple seasons. Waterway A has been recently altered extensively with unpermitted grading, vegetation clearing, the unpermitted installation of stone check dams and haybale check dams, the unpermitted culverting of a portion of the watercourse to construct a new dirt access road, and the placement of erosion and sediment control materials on the banks.

- 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:

<table>
<thead>
<tr>
<th>Provide estimates for jurisdictional waters in the review area (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Tributary waters: __________ linear feet width (ft).</td>
</tr>
<tr>
<td>☒ Other non-wetland waters: 0.27 acres.</td>
</tr>
</tbody>
</table>
| Identify type(s) of waters: |}

3. **Non-RPWs** 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.

<table>
<thead>
<tr>
<th>Provide estimates for jurisdictional waters within the review area (check all that apply):</th>
</tr>
</thead>
<tbody>
<tr>
<td>☐ Tributary waters: __________ linear feet width (ft).</td>
</tr>
<tr>
<td>☒ Other non-wetland waters: __________ acres.</td>
</tr>
</tbody>
</table>
| Identify type(s) of waters: |}

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

- Wetlands directly abutting 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: Waterway A, an RPW, via a drainage pipe with perennial water flow. Wetland A directly abuts Waterway B via a perennial surface flow connection and subsequently drains into Waterway A. Waterway A then drains immediately off-site via a culvert under Roosevelt Drive into the Housatonic River, a TNW.

- 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: 0.21 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 jurisdictional. Data supporting this conclusion is provided at Section III.C.

| Provide acreage estimates for jurisdictional wetlands in the review area: 0.02 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.**

- 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).

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8 See Footnote # 3.
9 To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
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):

- 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:

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

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: Property and Topographic Survey Map, Wetland Mitigation Plan.
- 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: The Corps collected data during a site visit on April 24, 2018.
- 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: Long Hill.

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.
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 Geodetic Vertical Datum of 1929)
or ☐ Other (Name & Date): Site photographs provided by consultant (11/2017, 12/2017, 3/3/2018) and taken by Corps (4/24/2018).
Previous determination(s). File no. and date of response letter: .
Applicable/supporting case law: .
Applicable/supporting scientific literature: .
Other information (please specify): .
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): June 4, 2018

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Tonino Navuli/46 & 100 Roosevelt Drive – Wetland F (NAE-2017-02769)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Connecticut    County/parish/borough: New Haven    City: Seymour
Center coordinates of site (lat/long in degree decimal format): Lat. 41.349445° N, Long. 73.126992° W.
Universal Transverse Mercator: 656691.516928, 4579242.310254
Name of nearest waterbody: Housatonic River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Housatonic River
Name of watershed or Hydrologic Unit Code (HUC): Halfway River–Housatonic River

D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):
☐ Office (Desk) Determination. Date: May 3, 2018
☐ Field Determination. Date(s): April 24, 2018

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 "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 (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: 0.04 acres.

   c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual
      Elevation of established OHWM (if known):

2. Non-regulated waters/wetlands (check if applicable): 2
   ☐ Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.
      Explain:

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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.
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: Housatonic River.

   Summarize rationale supporting determination: Traditionally navigable waters include "all waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide" (33 C.F.R. § 328.3(a)(1); 40 C.F.R. § 230.3(s)(1)), plus all other waters that are navigable-in-fact. This portion of the Housatonic River that is adjacent to and directly abutting the wetland under consideration is not tidally influenced, but it can be considered "navigable-in-fact" because it can is used, or is susceptible of being used, in its ordinary condition, as a highway for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

2. Wetland adjacent to TNW

   Summarize rationale supporting conclusion that wetland is “adjacent”: Wetland F, totaling 0.04 acre, is a naturally occurring palustrine wetland that drains directly via an established culvert below Roosevelt Drive (State Route 34) to the Housatonic River, a TNW that is situated approximately 50 feet to the southwest of the wetland. Therefore, Wetland F is adjacent to and directly abutting the Housatonic River.

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 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: ____________

   Drainage area: ____________

   Average annual rainfall: ________ inches

   Average annual snowfall: ________ inches

   (ii) Physical Characteristics:

   □ Tributary flows directly into TNW.

   □ Tributary flows through ____________ tributaries before entering TNW.

---

Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
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:
Tributary stream order, if known:

(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
☐ Cobble
☐ Gravel
☐ Bedrock
☐ Vegetation. Type% cover:
☐ Other. Explain:

Concrete
Muck

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:
☐ Dye (or other) test performed:

Subsurface flow: Pick List. Explain findings:
☐ Bed and banks
☐ OHWM* (check all indicators that apply):
☐ clear, natural line impressed on the bank
☐ changes in the character of soil
☐ shelving
☐ vegetation matted down, bent, or absent
☐ leaf litter disturbed or washed away
☐ sediment deposition
☐ water staining
☐ other (list):
☐ Discontinuous OHWM. 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
☐ fine shell or debris deposits (foreshore)
☐ physical markings/characteristics
☐ tidal gauges
☐ survey to available datum;
☐ physical markings;
☐ vegetation lines/changes in vegetation types.

---

3 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.

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.

(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: 
(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:

<table>
<thead>
<tr>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
<th>Directly abuts? (Y/N)</th>
<th>Size (in acres)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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: 0.04 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 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 jurisdictional. 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.  

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):  

☐ 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: 

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8See Footnote # 3.
9To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.
10Prior 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.
- 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): .

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.
- 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.
- 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: Property and Topographic Survey Map, Wetland Mitigation Plan.
- 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: The Corps collected data during a site visit on April 24, 2018.
- 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: Long Hill.
- 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 Geodetic Vertical Datum of 1929)
- FEMA/FIRM maps:
- Other (Name & Date): Site photographs provided by consultant (11/2017, 12/2017, 3/3/2018) and taken by Corps (4/24/2018).
- 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: 
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): June 4, 2018


C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: Connecticut County/parish/borough: New Haven City: Seymour
Center coordinates of site (lat/long in degree decimal format): Lat. 41.349445° N, Long. 73.126992° W.
Universal Transverse Mercator: 656691.516928, 4579242.310254
Name of nearest waterbody: Housatonic River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: Housatonic River
Name of watershed or Hydrologic Unit Code (HUC): Halfway River—Housatonic River
☐ 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: May 3, 2018
☐ Field Determination. Date(s): April 24, 2018

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 waters2 (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: Wetland C, comprising 0.036 acre, and Wetland E, totaling 0.005 acre, have been identified as non-jurisdictional aquatic features because they lack a significant nexus to any traditionally navigable waters. These wetlands obtain their water from precipitation and/or runoff and are isolated from the Housatonic River, the nearest TNW, by topography, which limits any physical, chemical, or biological nexus to a TNW. Wetland C is one of four

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.
aquatic features delineated at the site that were excavated within former uplands. However, unlike the jurisdictional Wetlands A, B, and D, Wetland C appears to be more heavily disturbed with excavated material and other debris, supports relatively minimal standing water in a shallower and less concave basin, and is situated further away (approximately 200 feet northwest) from Waterway A to a point that any usage of Wetland C by aquatic or semi-aquatic organisms utilizing the Waterway A complex is unlikely. Although there is an intermittent watercourse that drains from Wetland C to the jurisdictional Wetland D, this watercourse does not represent either a hydrological or ecological nexus to Waterway A because Wetland D lacks surface flow to Waterway A. The other non-jurisdictional feature, Wetland E, is a naturally occurring, palustrine wetland in a portion of the review area that has not been disturbed by human activities. Wetland E is situated at the bottom of a rocky slope and is topographically, hydrologically, and ecologically isolated from the Housatonic River, which lies approximately 200 feet to the southwest of this wetland but is located across upland that includes the major barrier of Roosevelt Drive (State Route 34).
### 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 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:**
   - 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:
     - Tributary stream order, if known:

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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
- [ ] Cottles
- [ ] Gravel
- [ ] Bedrock
- [ ] Vegetation. Type%/cover: [ ]
- [ ] Concrete
- [ ] Muck
- [ ] 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
  - [ ] changes in the character of soil
  - [ ] shelving
  - [ ] vegetation matted down, bent, or absent
  - [ ] leaf litter disturbed or washed away
  - [ ] sediment deposition
  - [ ] water staining
  - [ ] other (list):
- [ ] the presence of litter and debris
- [ ] destruction of terrestrial vegetation
- [ ] the presence of wrack line
- [ ] sediment sorting
- [ ] scour
- [ ] multiple observed or predicted flow events
- [ ] abrupt change in plant community
- [ ] 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
  - [ ] fine shell or debris deposits (foreshore)
  - [ ] physical markings/characteristics
  - [ ] tidal gauges
  - [ ] other (list):
  - [ ] survey to available datum;
  - [ ] physical markings;
  - [ ] vegetation lines/changes in vegetation types.

(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:

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\(^6\)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:

h Habitat for:

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.
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-RPWs4 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:

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 jurisdictional. 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.4
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: _______

---

4See 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: Wetlands C and E, totaling 0.04 acre, are non-jurisdictional because they lack a significant nexus to any TNWs. These wetlands are topographically isolated from the Housatonic River, the nearest TNW, which limits any physical, chemical, or biological nexus to a TNW. Wetland C is driven by surface water flows and perched water tables. This wetland supports relatively minimal standing water in a shallow and minimally concave basin and is situated at a distance of approximately 200 feet across heavily excavated upland from Waterway A, which makes any usage of the wetland by aquatic or semi-aquatic organisms utilizing the Waterway A complex unlikely. Wetland C is also lacking in vegetation and is heavily disturbed with excavated material and other debris, thus causing it to be of poor ecological value. Although there is an intermittent watercourse that drains from Wetland C to the jurisdictional Wetland D, this watercourse does not represent either a hydrological or ecological nexus to Waterway A because Wetland D lacks surface flow to Waterway A. The other non-jurisdictional feature, Wetland E, is a naturally occurring, palustrine wetland in a portion of the review area that has not been disturbed by human activities. Wetland E is situated at the bottom of a rocky slope and is topographically, hydrologically, and ecologically isolated from the Housatonic River, which lies approximately 200 feet to the southwest of this wetland but is located across upland that includes the major barrier of Roosevelt Drive.

- Other: (explain, if not covered above): .

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: 0.04 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: Property and Topographic Survey Map, Wetland Mitigation Plan.
- 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: The Corps collected data during a site visit on April 24, 2018.
- Corps navigable waters' study:
- USGS NHD data.
- USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Long Hill.
- 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 Geodetic Vertical Datum of 1929)
  
or ☑ Other (Name & Date): Site photographs provided by consultant (11/2017, 12/2017, 3/3/2018) and taken by Corps (4/24/2018).
- 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:
US Army Corps of Engineers.

19th Century Service

Tonino Mavuli

Corps File No. NAE-2017-02769

May 3, 2018

Waters subject to Clean Water Act (33 USC §1344):

- Non-Wetland Waters: 0.27 acre
- Wetlands: 0.27 acre

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WATERS SUBJECT TO CLEAN WATER ACT (33 USC §1344):

- MI Wetlands: 0.04 acre
- Non-Wetland Waters: 0.27 acre
- Wetlands: 0.27 acre

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ROOSEVELT DRIVE (RT 34)

13. ROOSEVELT DRIVE (ROUTE 34) IS A MONUMENTED STATE PROPERTY WITH A DESIGNATED 80 FOOT RIGHT-OF-WAY IN THE VICINITY OF THE PROPERTY. WERE REDEEMED ('FLAGGED') BY SCOTT REFERENCE IS MADE TO THE FOLLOWING MAPS:

1. PROPERTY IS CURRENTLY OWNED BY SUNLITE REALTY LP AND THE PROPERTY ADDRESS is 6011301 09009C03829 DATED DECEMBER 17, 2010.
2. THE PROPERTY IS LOCATED WITHIN A RC-3 RECREATION COMMERCIAL ZONE.
3. THE PROPERTY IS LOCATED IN THE FOLLOWING FLOOD ZONE(S): ZONE 0, 0.210 CHANCE OF ANNUAL FLOOD AS DEPICTED ON ROAD INSURANCE MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, COMMUNITY PANEL.

a) COSTING CONDEMN - PROPERTY & TOPOGRAPHIC SURVEY. PREPARED FOR RIVERS EDGE LTD.
   b) (other) DORIS, RESTRICTIONS, ENCUMBRANCES, COVENANTS, EASEMENTS, ETC. AS THE RECORD 03/25/01 46 &TOD ROOSEVELT DRIVE, SEYMOUR, CONNECTICUT, PREPARED BY BL COMPANIES, DATED AQUIFER PROTECTION DISTRICT AREA OF THE PROPERTY IS 623.635 SQUARE FEET (14.3 ACRES).


5. THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON. TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREIN.

Christopher S. Sturm, LS. #08033

Project No.: 16-159

Revised: 09/11/17

SCALE: 1" = 100'

This document is valid only if it bears an original signature and embossed seal of the designated licensed professional. Any alterations and copies thereof are invalid only if they bear the original signature and embossed seal of the designated licensed professional.

Property and Topographic Survey

Land of

Sunlite Realty Limited Partnership

Project no.: 16-159

46 & 100 Roosevelt Drive

Seymour, CT. 06483

(203) 265-1489

Street (MTIA=Die)

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48 MAIN STREET, NADELVILLE

1973 - 2016

DRAWN: GEORGINA

CHECKED: JULIANO

DRAFTED: BRIDGETTE BROWN

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TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREIN.

David W. Juliano, LS. #08033

REVISIONS

DRAWN: GEORGINA

CHECKED: JULIANO

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NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Tonino Mavuli  
File Number: NAE-2017-02769  
Date: June 4, 2018

Attached is:
- INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)  
- PROFFERED PERMIT (Standard Permit or Letter of permission)  
- PERMIT DENIAL  
- X APPROVED JURISDICTIONAL DETERMINATION  
- PRELIMINARY JURISDICTIONAL DETERMINATION

SECTION I - The following identifies your rights and options regarding an administrative decision. Additional information may be found at http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramAndPermits/appeals.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.
- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit
- ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.
- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.
**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

**REASONS FOR APPEAL OR OBJECTIONS:** (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

**ADDITIONAL INFORMATION:** The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

**POINT OF CONTACT FOR QUESTIONS OR INFORMATION:**

If you have questions regarding this decision and/or the appeal process you may contact:

Ms. Ruth Ladd  
Chief, Policy and Technical Analysis Branch  
U.S. Army Corps of Engineers, New England District  
696 Virginia Road  
Concord, MA 01742-2751  
Phone: 978-318-8818  
Email: ruth.m.ladd@usace.army.mil

**If you only have questions regarding the appeal process you may also contact:**

Mr. James W. Haggerty  
Regulatory Program Manager (CENAD-PD-OR)  
U.S. Army Corps of Engineers, Fort Hamilton Military Community  
301 General Lee Avenue  
Brooklyn, NY 11252-6700  
Phone: 347-370-4650  
Email: james.w.haggerty@usace.army.mil

**RIGHT OF ENTRY:** Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

<table>
<thead>
<tr>
<th>Signature of appellant or agent.</th>
<th>Date:</th>
<th>Telephone number:</th>
</tr>
</thead>
</table>


Administrative Appeal Process for Approved Jurisdictional Determinations

District issues approved Jurisdictional Determination (JD) to applicant/landowner with NAP.

Does applicant/landowner accept approved JD?

No

Applicant/landowner provides new information?

No

Applicant decides to appeal approved JD. Applicant submits RFA to division engineer within 60 days of date of NAP.

Corps reviews RFA and notifies appellant within 30 days of receipt.

Is RFA acceptable?

No

Optional JD Appeals Meeting and/or site investigation.

RO reviews record and the division engineer (or designee) renders a decision on the merits of the appeal within 90 days of receipt of an acceptable RFA.

Does the appeal have merit?

No

Does applicant/landowner accept approved JD?

Yes

Applicant/landowner provides new information?

Yes

District issues approved Jurisdictional Determination (JD) to applicant/landowner with NAP.

Max. 60 days

Max. 30 days

Max. 90 days

Division engineer or designee remands decision to district, with specific instructions, for reconsideration; appeal process completed.

Does the appeal have merit?

Yes

District's decision is upheld; appeal process completed.

Appendix C

Administrative Appeal Process for Approved Jurisdictional Determinations

District makes new approved JD.

Yes

District issues approved Jurisdictional Determination (JD) to applicant/landowner with NAP.

Approved JD valid for 5 years.

Yes

District makes new approved JD.

To continue with appeal process, appellant must revise RFA. See Appendix D.
Process for Unacceptable Request for Appeal

Division Engineer determines RFA is unacceptable. (From Appendix A)

Is RFA complete?

Yes

Review officer returns RFA for applicant to complete.

No

Is revised RFA complete?

Yes

Does RFA meet criteria?

Yes

Appeal process begins on date of receipt of acceptable RFA. (See Appendix A for process.)

No

Division Engineer returns RFA to applicant to revise.

No

Appeal process withdrawn. No further appeal is possible.

Yes

Does revised RFA meet criteria for appeal?