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): 27 SEP 2013

B. DISTRICT OFFICE: Baltimore District
FILE NAME: Brandy Farms Lane
FILE NUMBER: 2012-61112

C. PROJECT LOCATION AND BACKGROUND INFORMATION:
State: **Maryland** County/parish/borough: **Anne Arundel** City: **Millersville**
Center coordinates of site (lat/long in degree decimal format): **Lat. 39.04352° N, Long. -76.66675° W.**
Universal Transverse Mercator: **1406981.4412 Northing (Y), 501578.5888 Easting (X)**
Name of nearest waterbody: **Unnamed tributary to Touser's Branch**
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **Patuxent River**
Name of watershed or Hydrologic Unit Code (HUC): **02060006020**
☒ 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:
☒ Field Determination. Date(s): **September 20, 2012**

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION.

There **Are no** *"navigable waters of the U.S."* within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [*Required*]
☐ Waters subject to the ebb and flow of the tide.
☐ Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. **Waters of the U.S.**
   a. **Indicate presence of waters of U.S. in review area (check all that apply):** [1]
      ☐ TNWs, including territorial seas
      ☐ Wetlands adjacent to TNWs
      ☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
      ☐ Non-RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
      ☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
      ☒ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
      ☐ Impoundments of jurisdictional waters
      ☐ Isolated (interstate or intrastate) waters, including isolated wetlands

   b. **Identify (estimate) size of waters of the U.S. in the review area:**
      Non-wetland waters: **N/A**
      Wetlands: **~41,330 ft. sq. (0.949 acres)**

   c. **Limits (boundaries) of jurisdiction** based on: **1987 U.S. Army Corps of Engineers Wetlands Delineation Manual and the Atlantic and Gulf Coastal Plain Regional Supplement.**
      Elevation of established OHWM (if known):

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

[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.

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW:

Summarize rationale supporting determination:

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

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

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

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

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

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

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

(i) General Area Conditions:
Watershed size:
Drainage area: **48+/- acres (drainage area to point where wetlands drain off-site through a culvert under MD Route 3)**
Average annual rainfall: **BWI Airport, Maryland - 41 inches**
Average annual snowfall: **BWI Airport, Maryland - 21 inches**

(ii) Physical Characteristics:
(a) Relationship with TNW:
☐ Tributary flows directly into TNW.
☒ Tributary flows through **2** tributaries before entering TNW.

Project waters are **10-15** river miles from TNW.
Project waters are **1 (or less)** river miles from RPW.
Project waters are **5-10** aerial (straight) miles from TNW.
Project waters are **1 (or less)** aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain: **N/A**

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

Identify flow route to TNW[5]: **On-site wetlands drain into a culvert under MD Route 3, which contributes to an off-site, unnamed, non-relatively permanent, intermittent stream, which contributes to Touser's Branch, which contributes to the Little Patuxent River, which contributes to the Patuxent River (TNW).**

Tributary stream order, if known: **There are no waters of the U.S. on-site. On-site wetlands contribute to an off-site non-relatively permanent water, a first order stream.**

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

Tributary is: ☐ Natural
☐ Artificial (man-made). Explain:
☒ Manipulated (man-altered). Explain: **The off-site intermittent stream has been manipulated by the development that flanks it and by the roads that cross it.**

Tributary properties with respect to top of bank (estimate):
Average width: **3 feet**
Average depth: **1 foot**
Average side slopes: **Vertical (1:1 or less).**

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: **The off-site tributary shows some signs of erosion (bare banks), however erosion is limited by the obstruction to flow created by the culvert under MD Route 3.**
Presence of run/riffle/pool complexes. Explain: **No run/riffle/pool complexes observed in the off-site, intermittent stream .**
Tributary geometry: **Relatively straight**
Tributary gradient (approximate average slope): **2%**

(c) Flow:
Tributary provides for: **Intermittent but not seasonal flow**
Estimate average number of flow events in review area/year: **11-20**

Describe flow regime: **On-site wetlands drain into a culvert under northbound MD Route 3 along the western property boundary. The culvert empties into a small, off-site basin in the median of Route 3. An intermittent stream conveys drainage from this basin to Touser's Branch. However, the bed of the intermittent stream is several feet higher than the bottom of the basin it drains. Therefore, water can only flow into the intermittent stream during those storm events where the backwater flood condition in the on-site wetland swale reaches an elevation high enough to allow water to overflow the basin in the median of Route 3 and enter the intermittent stream.**

Other information on duration and volume:

Surface flow is: **Confined.** Characteristics:

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

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

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

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

☐ 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:
- ☐ oil or scum line along shore objects
- ☐ fine shell or debris deposits (foreshore)
- ☐ physical markings/characteristics
- ☐ tidal gauges
- ☐ other (list):

☐ Mean High Water Mark indicated by:
- ☐ 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: **Water was not observed in the off-site intermittent stream at the time of field visits.**

Identify specific pollutants, if known: **N/A**

(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: **0.949 acres**

Wetland type. Explain: **Palustine emergent wetland**

Wetland quality. Explain: **The on-site wetland is well vegetated but poor in quality, due to it's man-made and maintained character. The wetland is maintained as a vegetated drainage swale in a grass field that is fertilized annually and mown for hay several times per year. The wetland has little opportunity to support wildlife or significant biodiversity.**

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is: **Intermittent flow**. Explain: **No flow observed within the on-site wetland during site visits.**

Surface flow is**: Confined**

Characteristics: **During storm events and periods with a seasonally high water table, flow within the wetland is likely confined to the banks of the swale until the backwater condition, described in III.B.(ii)(c) above, fills the banks and floods portions of the adjacent field.**

Subsurface flow**: Unknown**. Explain findings: **No flow observed within the on-site wetland during site visits. Descriptions of inundation are based on observations on aerial photographs.**

☐ Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

☒ Directly abutting **(The on-site wetland drains into a culvert that conveys flow to an intermittent stream located outside the review area.)**

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

(d) Proximity (Relationship) to TNW

Project wetlands are **10-15** river miles from TNW.

Project waters are **5-10** aerial (straight) miles from TNW.

Flow is from: **Wetland to navigable waters.**

Estimate approximate location of wetland as within the **500-year or greater** floodplain.

(ii) Chemical Characteristics:

[7]Ibid.

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **No flow observed within the on-site wetland during site visits.**

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: **The wetland is 100% vegetated. The vegetation is dominated by *Persicaria maculosa* growing with *Eleocharis tenui*s, and other less prevalent species.**

☐ 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: **1**

Approximately (**6.0 +/-**) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)
Y	**6.0 +/-**		

The on-site wetlands are part of an off-site wetland system on the adjacent property to the north. Both wetlands are considered together in the statistics below:

Summarize overall biological, chemical and physical functions being performed: **Wildlife habitat, nutrient cycling, water quality improvement, and groundwater recharge. See SNE below.**

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:
The on-site wetland provides the following functions that may affect TNW:

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: **Due to the potential Waters B has to provide habitat and conveyance of seasonally high groundwater, Waters B displays a significant nexus to RPWs that lead into TNWs.**

☒ Habitat for Wildlife – Describe the food, water, shelter and space.
The on-site wetlands consist of a larger wetland system that extends off-site to the north. Both on-site and off-site portions of the wetland system consist of palustrine emergent wetlands, in an open field, supporting primarily *Juncus effusus*, *Persicaria maculosa*, and *Eleocharis tenuis*. Both systems drain into a culvert that conveys drainage to an off-site,

intermittent, nonrelatively permanent water (non-RPW) located across Maryland Route 3. On-site wetlands are maintained in a mowed state and would provide little in the way of food and shelter. The off-site wetland is unmowed and consists of a field of softrush that may provide shelter for birds, and other small animals. Because the on-site wetland is seasonally inundated, it may provide water for wildlife that can brave the absence of cover in the mowed field.

☐ Aquatic Life (Organisms) – examples of aquatic life or signs of aquatic life.
During site visits, aquatic life was not observed within the on-site wetlands.

☐ Support Nutrient Cycling – watering, decomposition, fertilizers, flooding.
The onsite wetland system conveys drainage from the review area, and the adjacent off-site wetlands to the north, to an unnamed, intermittent, non-RPW that ultimately contributes to Touser's Branch. The field of softrush that comprises the off-site wetlands north of the review area likely generates organic carbon from decomposition of vegetation and conveys it to the on-site wetland. The on-site wetland consists of a man-made vegetated swale within a grass field that is harvested two to three times per year for hay. As such, it is unlikely to support nutrient cycling in a significant capacity. However, the on-site wetland swale does function as a conveyance of nutrients from the off-site wetlands to the intermittent non-RPW across Route 3. The hay production field is fertilized yearly and the pH is maintained to maximize hay yields. The on-site wetland swale likely helps filter some of the nutrients that may run off of the adjacent field. However, some nutrients likely are conveyed downstream. With regard to flooding, the on-site (and adjacent off-site) wetlands form the head of the unnamed, off-site tributary. A quick study of the topography surronding the review area resulted in an approximate drainage area of 48 acres to the culvert that conveys drainage from the site under Route 3. Because of this limited drainage area, the on-site wetlands would not likely have the opportunity to store or convey a significant volume of flood water. A man-made condition causes the wetland to be seasonally inundated. The culvert at Route 3 is set lower than the receiving tributary. Therefore, during the wet season, water backs up in the on-site wetland until it reaches an elevation sufficient to drain into the intermittent stream channel.

☐ Sediment Transport – Describe if system is in balance or is there excess erosion or depositional features.
No evidence of significant erosion or depositional features was observed within the on-site wetlands. The on-site wetlands are well vegetated and likely buffer the receiving tributary from sediment transport.

☐ Pollutant Trapping/Filtration.
The on-site wetlands receive drainage primarily from the subject property and the adjacent wetland in the north. A few small areas of developed land (adjacent roads and portions of adjacent developed properties) are included within the drainage area. Because the majority of the wetland's drainage area consists of undeveloped land, the on-site wetland does not likely provide significant pollutant trapping/filtration functions.

☒ WQ Improvement – Overall existing setting (nitrogen & phosphorus).
The hay production field is fertilized yearly and the pH is maintained to maximize hay yields. Due to it's narrow geometry, the on-site wetland swale likely provides some limited nutrient filtering of the runoff from the adjacent field. Some soluble nutrients are likely conveyed downstream during the wet season through the connecting, off-site, intermittent RPW.

☒ Temperature/pH – water chemistry, buffers and land use.
Because the culvert below MD Route 3 is lower than the receiving intermittent stream, the wetland primarily conveys drainage to the receiving tributary during the wet season when the water table is seasonally high (winter and early spring). During the wet season, water temperatures would likely be cool. During the dry season when water temperatures might be expected to be warmer, the downstream tributary likely receives drainage from the on-site wetlands in the form of infrequent, brief flushes during significant storm events. The pH of the hay field is maintained by the owner near 6.0 to maximize potential hay yeilds. This artificial pH maintenance could potentially influence the pH of the water conveyed from the field. However, tests have not been performed to evaluate the chemistry of the run-off.

☐ Critical Transitional Area – Riparian Zone which life aquatic ecosystem with areas that are flooded periodically.
The wetland appears to be only seasonally inundated, and is surrounded by a land use that would diminish the potential for aquatic ecosystems. Aquatic life was not observed during field visits.

☐ Flood Storage – Does subject waters and/or wetland serve to store any stormwater and/or floodwaters?
As previously stated, a quick study of the topography surronding the review area showed an approximate drainage area of 48 acres to the culvert that conveys drainage from the site under Route 3. Because of this limited drainage area, the on-site wetlands would not likely have the opportunity to store or convey a significant volume of flood water. A man-made condition causes the wetland to be seasonally inundated. The culvert at Route 3 is set lower than the receiving tributary. Therefore, during the wet season, water backs up in the on-site wetland until it reaches an elevation sufficient to drain into the intermittent stream channel. This condition does not represent the natural, beneficial storage capacity of a riparian floodplain. Instead, the on-site condition consists of a backwater condition created by a manipulated conveyance that should be remedied.

☐ Commerce – known or documented use from out of state
No use of out-of-state commerce associated with the on-site wetland or the off-site intermittent stream has been known or documented.

☐ Navigation – movement of crafts or vessels on water
The on-site wetland and the off-site intermittent stream does not support navigation.

☐ Recreation – use of waters or methods by general public use boating, swimming, fishing, etc.
The on-site wetland and the off-site intermittent stream does not support rescreational use by the general public, such as boating, swimming, fishing, or other such forms of recreation.

☐ Public Health – overall health of a community
There is no knowledge of this on-site wetland or the off-site intermittent stream having an affect on the overall health of the surrounding community.

☒ Groundwater discharge/recharge
Because of the backwater condition caused by the conveyance under MD Route 3, the on-site wetlands likely provide some groundwater recharge functions.

☐ Other:

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

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

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

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

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

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

   Provide estimates for jurisdictional waters within the review area (check all that apply):
   ☐ Tributary waters:
   ☐ 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.**

[8]See Footnote # 3.

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

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

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

☒ Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area: **0.949** acres.

7. Impoundments of jurisdictional waters.[9]

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

☐ Demonstrate that impoundment was created from "waters of the U.S.," or
☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):[10]

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.
☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
☐ which are or could be used for industrial purposes by industries in interstate commerce.
☐ Interstate isolated waters. Explain:
☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

Provide estimates for jurisdictional waters in the review area (check all that apply):

☐ Tributary waters: linear feet width (ft).
☐ Other non-wetland waters: acres.
Identify type(s) of waters:
☐ Wetlands: acres.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):

☐ If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
☐ Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.
☐ Prior to the Jan 2001 Supreme Court decision in "*SWANCC*," the review area would have been regulated based solely on the "Migratory Bird Rule" (MBR).
☐ Waters do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction. Explain:
☐ Other: (explain, if not covered above):

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):
☐ Lakes/ponds: acres.
☐ Other non-wetland waters: acres. List type of aquatic resource:
☐ Wetlands: acres.

[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.*

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**: Wetland Delineation Plan, prepared by Geo-Technology Associates, Inc., dated August 3, 2012**

☒ Data sheets prepared/submitted by or on behalf of the applicant/consultant.
- ☒ Office concurs with data sheets/delineation report.
- ☐ Office does not concur with data sheets/delineation report.

☐ Data sheets prepared by the Corps:

☐ Corps navigable waters' study:

☐ U.S. Geological Survey Hydrologic Atlas:
- ☐ USGS NHD data.
- ☐ USGS 8 and 12 digit HUC maps.

☒ U.S. Geological Survey map(s). Cite scale & quad name: **Relay, Maryland (1947)**

☒ USDA Natural Resources Conservation Service Soil Survey. Citation: **Anne Arundel County USDA Web Soil Survey, 2011**

☒ National wetlands inventory map(s). Cite name: **United States Fish and Wildlife Service wetland map obtained from MERLIN Online (http://mdmerlin.net)**

☒ State/Local wetland inventory map(s): **Maryland Department of Natural Resources wetland map obtained from MERLIN Online (http://mdmerlin.net)**

☒ FEMA/FIRM maps: **Anne Arundel County, Maryland, Map Number 2400080025C**

☐ 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)

☒ Photographs: ☒ Aerial (Name & Date): **1998 Aerial Photograph obtained from MERLIN Online (http://mdmerlin.net) and 2010 Aerial Photograph obtained from Google Earth**
or ☒ Other (Name & Date): **GTA Site Photographs, December 2011 and July 2012.**

☐ 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: