

**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): January 2, 2014**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAB-OP-RMS (KONTERRA TOWN CENTER WEST/JD) 2013-01643-M32**

**PROJECT LOCATION AND BACKGROUND INFORMATION:** The area of review is known as the Konterra Town Center West site and is located south of Contee Road, east of a PEPCO power Right-of-Way (ROW), northwest of the MD Route 200 (ICC) ramp to I-95, and bisected by Van Dusen Road, in Laurel, Prince Georges County, Maryland. The two properties making up the area of review are the property known as the Zantzinger pit to the south of Van Dusen Road and the property known as the Gudelsky Tract, referred to as Seven Knolls Farm in the MDE mining permit, north of Van Dusen Road.

**Reaches: two streams, one non-tidal abutting wetland, and one isolated wetland**

State: **Maryland** County/parish/borough: **Prince George's** City: **Laurel**  
Center coordinates of site (lat/long in degree decimal format): Lat. **N 39°04'51.75"** Long. **W 76°53'52.90"**

Name of nearest waterbody: **portions of Indian Creek**

Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: **the Anacostia River**

**The site drains through Indian Creek south off the property through a culvert under MD Route 200, and eventually drains to Northeast Branch, a tributary of the Anacostia River, a traditional navigable tributary of the Potomac River, a tidal, navigable, interstate tributary of the Chesapeake Bay, a traditional navigable waterway.**

Name of watershed or Hydrologic Unit Code (HUC): **Potomac River - 02070010**

- 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: **N/A**  
 Field Determination. Date(s): **13 August 2013**

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There are not "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 and are not "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**Upland drainage features (labeled on plans as Gudelsky Upland Drainage, East Upland Ditch of G. Upland Drainage, and West Upland Ditch of G. Upland Drainage) and man-made isolated ponds (labeled on plans as Former Sediment Pond and Sotrmwater Management Ponds) are not waters of the U.S. and are not wetlands.**

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas  
 Wetlands adjacent to TNWs  
 Relatively permanent waters<sup>2</sup> (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: Indian Creek divides into two channels on the project site: one is part of a wetland-stream complex with abutting non-tidal wetland, and the other remains a separate nontidal**

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> 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).

stream. The wetland complex is approximately 198,575 square feet. The size of the east and west channels combined is approximately 76,330 square feet along 1,247 linear feet.

The project impact area is indicated below.

c. **Limits (boundaries) of jurisdiction based on: 1987 U.S. Army Corps of Engineers Wetlands Delineation Manual**  
Elevation of established OHWM (if known): The OHWM is highly variable, and thus is unknown.

2. **Non-regulated waters/wetlands (check if applicable):**<sup>3</sup>

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined not to be jurisdictional. Explain: **A wetland (labeled on the plans as Isolated Wetland) located along the south border of the Zantzinger property was not observed to have a surface connection with any waters. The isolated wetland was determined not to have a significant nexus with a TNW and is thus not regulated by the 4<sup>th</sup> Circuit.**

### 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<sup>4</sup> 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: **92,608 acres (Anacostia River)**

Drainage area: **unknown**

Average annual rainfall: **approximately 39.35 inches**

Average annual snowfall: **unknown**

<sup>3</sup> Supporting documentation is presented in Section III.F.

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

(ii) **Physical Characteristics:**

(a) Relationship with TNW:

- Tributary flows directly into TNW.  
 Tributary flows through **1** tributaries before entering TNW.

Project waters are approximately **10.37** river miles from TNW.

Project waters are approximately **less than 1** river miles from RPW – **project waters are a RPW.**

Project waters are approximately **9.9** aerial (straight) miles from TNW.

Project waters are approximately **less than 1** aerial (straight) miles from RPW – **project waters are a RPW.**

Project waters cross or serve as state boundaries. Explain: **N/A.**

Identify flow route to TNW<sup>5</sup>: **Project waters are part of Indian Creek, which flows through Northeast Branch, to the Anacostia River, a TNW.**

Tributary stream order, if known: **Unknown**

(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: **15 feet**

Average depth: **4 feet**

Average side slopes: **45%**

Primary tributary substrate composition (check all that apply):

- Silts  Sands (**upstream portion of main channel and all of tributary**)  
 Concrete  Cobbles  
 Gravel (same as sand stream bottom cover)  
 Muck  Bedrock  
 Vegetation. Type/% cover:  
 Other. Explain:

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: **moderate stability – banks vegetated;**

Tributary geometry:

Tributary gradient (approximate average slope): **5%**

(c) Flow:

Tributary provides for: **perennial flow**

Estimate average number of flow events in review area/year: **flows year-round**

Describe flow regime: **perennial**

Other information on duration and volume: **unknown**

Surface flow is: **perennial** Characteristics:

Subsurface flow: **unknown; however, groundwater seeps probably contribute hydrologically to baseflow, allowing the streams to flow year-round**

- Dye (or other) test performed: **N/A.**

Tributary has (check all that apply):

- Bed and banks  
 OHWM<sup>6</sup> (check all indicators that apply):  
 clear, natural line impressed on the bank  the presence of litter and debris  
 changes in the character of soil  destruction of terrestrial vegetation  
 shelving  the presence of wrack line  
 vegetation matted down, bent, or absent  sediment sorting  
 leaf litter disturbed or washed away  scour  
 sediment deposition  multiple observed or predicted flow events  
 water staining  abrupt change in plant community  
 other (list):  
 Discontinuous OHWM.<sup>7</sup> Explain: **N/A.**

<sup>5</sup> 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.

<sup>6</sup> 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

<sup>7</sup>Ibid.

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

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

**(iii) Chemical Characteristics:**

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

Explain: **water not cloudy from sediment, but dark colored, perhaps from organic acids from vegetation. Water sufficiently clear to allow for observation of several fish at the re-connection of the East and West channels of Indian Creek on the south part of the site. Watershed is dominated by highly porous and erodible soils, many areas used for sand and gravel mining. The former mining sites in the watershed are increasingly being developed for commercial and residential uses.**

Identify specific pollutants, if known: **unknown**

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

- Riparian corridor. Characteristics (type, average width): **fragmented forested, approximately 1,477 feet wide at the widest point**
- Wetland fringe. Characteristics: **west channel part of large stream-wetland complex**
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings: **fish observed during Corps site visit**
  - 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: **198,575 square feet**

Wetland type: **PEM**

Wetland quality. Explain: **Refer to Section IV.B.**

Project wetlands cross or serve as state boundaries. Explain: **N/A.**

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

Flow is: **toward west channel of Indian Creek** Explain: **abutting wetlands part of wetland-stream complex with west channel of Indian Creek**

Surface flow is: **continuous, wetlands abut the perennial west channel of Indian Creek as part of a wetland-stream complex**

Characteristics:

Subsurface flow: **unknown** Explain findings: **Groundwater seeps likely contribute hydrologically to the wetlands, which drain the west channel of Indian Creek. The groundwater contribution to baseflow, after passing through the wetlands, allows the channel to flow year-round**

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 **10.37** river miles from TNW.

Project wetlands are **9.9** aerial (straight) miles from TNW.

Flow is from: **wetlands, through west channel of Indian Creek, into Northwest Branch (of the Anacostia River), to the Anacostia River, a TNW**

Estimate approximate location of wetland as within the floodplain: **wetland centered on floodplain as west channel of Indian Creek flows through as part of a stream-wetland complex**

**(ii) Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: **water quality was not examined and no sensitive species were observed; the Anacostia River watershed is highly urbanized; many areas in Prince George's County are covered in highly porous erodible soil and were mined for sand and gravel**

Identify specific pollutants, if known: **none known**

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

Riparian buffer. Characteristics (type, average width): **fragmented forested, approximately 1,477 feet wide at the widest point**

Vegetation type/percent cover. Explain: **vegetation dominated by *Phragmites australis***

Habitat for: **unknown – detailed wildlife study not completed for site**

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings: **fish observed toward south of site where west and east channels of Indian Creek reconnect, an area fringed with the PEM wetland**

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: **one wetland abutting streams (isolated wetland on site not included)**

Approximately **4.56** acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
<b>Wetland (Y)</b>	<b>4.56</b>		

Summarize overall biological, chemical and physical functions being performed: **Refer to Section IV.B.**

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:

- \* Aquatic Life (Organisms):
- \* Habitat for Wildlife:
- \* Support Nutrient Cycling:
- \* Sediment Transport:
- \* Pollutant Trapping:
- \* WQ Improvement:
- \* Temperature:
- \* Flood Storage:
- \* Commerce:
- \* Navigation:
- \* Recreation:
- \* Public Health:
- \* Groundwater Discharge:
- \* Groundwater recharge:

**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:
- Wetlands adjacent to TNWs:

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: **shown as blue line stream on ADC map, visible on aerial photographs in multiple years, support large (4 – 6 inch long) fish**
- 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: **76,330 square feet along 1,247 linear feet.**
- Other non-wetland waters:            acres.

Identify type(s) of waters:

3. **Non-RPWs<sup>8</sup> 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:
- Other non-wetland waters:

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 west channel of Indian Creek in stream-wetland complex, as observed by Corps during site visit**

- 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:

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.

<sup>8</sup>See Footnote # 3.

Provide acreage estimates for jurisdictional wetlands in the review area:

**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:

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

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):<sup>10</sup>**

- 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:  
 Other non-wetland waters:  
    Identify type(s) of waters:  
 Wetlands:

**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: **A wetland (labeled on the plans as Isolated Wetland) located along the south border of the Zantzinger property was not observed to have a surface connection with any waters. The isolated wetland was determined not to have a significant nexus with a TNW and is thus not regulated by the 4<sup>th</sup> Circuit.**  
 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):  
 Lakes/ponds:  
 Other non-wetland waters: List type of aquatic resource:  
 Wetlands:

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:  
 Other non-wetland waters: acres. List type of aquatic resource:  
 Wetlands: **14,028 square feet**

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> 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: **ADC vicinity map included in McCarthy & Associates Inc., included in August 07, 2013 Delineation Report**
- 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: **Beltsville quad included in Delineation Report;**
- USDA Natural Resources Conservation Service Soil Survey. Citation: **SoilMapper aerial image of site included in Delineation Report.**
- National wetlands inventory map(s). Cite name: **NWI map of site provided in Delineation Report; NWI wetlands data layer for area of review from the Watershed Resources Registry through ArcGIS Explorer.**
- State/Local wetland inventory map(s): **DNR wetlands data layer for area of review from the Watershed Resources Registry through ArcGIS Explorer.**
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is: (National Geodectic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): **GoogleEarth dated 2012 and Bing-Bird's-Eye View; plain aerial photograph and infrared aerial photograph included in August 07, 2013 Delineation Report**  
or  Other (Name & Date): **Photographs included with Delineation Report**
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): **Surface Mining Permit 90-SP-0351 documentation, Surface Mining Permit Modification, and Surface Mining Permit Renewal for both portions of the area of review; Watershed Resource Registry riparian restoration data layer through ArcGIS Explorer.**

#### **B. ADDITIONAL COMMENTS TO SUPPORT JD:**

##### **References:**

Maryland DNR Surf Your Watershed – Watershed Profile – Anacostia River watershed.  
<http://mddnr.chesapeakebay.net/wsprofiles/surf/prof/wsprof.cfm?watershed=02140205>. Accessed 16 July 2013

Total Maximum Daily Loads of Trash for the Anacostia River Watershed, Montgomery and Prince George's Counties, Maryland and the District of Columbia. Maryland Department of the Environment and the District of Columbia Department of the Environment – Natural Resources Administration.  
[http://www.mde.state.md.us/programs/Water/TMDL/ApprovedFinalTMDLs/Documents/www.mde.state.md.us/assets/document/Anacostia\\_Trash\\_TMDL\\_081010\\_final.pdf](http://www.mde.state.md.us/programs/Water/TMDL/ApprovedFinalTMDLs/Documents/www.mde.state.md.us/assets/document/Anacostia_Trash_TMDL_081010_final.pdf). Accessed 17 July 2013.