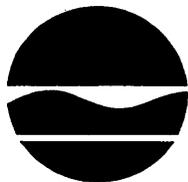


Appendix 2
Correspondence



Public Meeting Invitation

Wednesday,
February 22, 2006
7:00 p.m.

Town Of North Salem
Court Annex
274 Titicus Road
North Salem, New York

The NYS Departments of Environmental Conservation and Health (NYSDEC and NYSDOH) will discuss the proposed remedy for the Dino & Artie's Site. At the meeting, representatives from the NYSDEC and NYSDOH will:

- Describe results of the site investigations;
- Explain the proposed remedy;
- Answer your questions about the remedy;
- Receive your verbal or written comments about the proposal.

PUBLIC COMMENT PERIOD:

From: February 4, 2006
To: March 21, 2006

FACT SHEET

DINO & ARTIE'S SITE

SITE No. B00021-3

North Salem, NY

February 2006

Remedy Proposed for the Dino & Artie's Site

Public Meeting, Comment Period Announced

The New York State Department of Environmental Conservation (NYSDEC), working cooperatively with the New York State Department of Health (NYSDOH), has proposed a remedy designed to address contamination identified at the Dino & Artie's Environmental Restoration Project in North Salem, New York (*see location map on page 4*).

The Proposed Action: Highlights of the proposed remedy include covering all vegetated areas with two feet of clean soil and all non-vegetated areas with either concrete or a paving system. In addition, any occupied structure constructed at the site would be required to have an active sub-slab vapor mitigation system. This proposal is described in the site's proposed remedial action plan (PRAP). The PRAP was developed following a detailed investigation of the site. The PRAP evaluates different options to clean up the site and presents the alternative preferred by the NYSDEC and NYSDOH.

See pages 2 and 3 of this fact sheet for a summary of the PRAP, site background, and summary of the site investigation. The full PRAP is available for your review at the document repositories listed on page 3.

Your Opportunities to Comment on the Proposed Remedy: Release of the PRAP begins a process to finalize selection of the remedy for the site. Your comment and input about the proposed remedy are important and encouraged.

Your oral and written comments about the PRAP are welcome at the **public meeting** (see sidebar) and during a **public comment period** which runs until March 21, 2006. Written comments also may be mailed until the end of the comment period to:

Mr. Robert Filkins
NYSDEC, Division of Environmental Remediation
625 Broadway, Albany, New York 12233-7016

What Happens Next: All comments received during the public comment period will be considered as the remedy for the Dino & Artie's Site is finalized. Public input will be factored into the record of decision (ROD) which will describe the remedy selected and why it was chosen. NYSDEC will respond to comments in a responsiveness summary included in the ROD.

Summary of Proposed Remedial Action

The site is located in the Village of Croton Falls, Town of North Salem, on Croton Falls Road (Route 22), opposite the intersection with Warner Drive. The site is approximately 0.8 acres in size and is currently undeveloped. The PRAP identifies the remedy preferred by the NYSDEC and NYSDOH to remediate the contamination identified in soil and groundwater at the Dino & Artie's Site. The proposed alternative was chosen following a detailed investigation of the site and evaluation of alternatives for remediating the contamination.

The elements of the proposed remedy include:

- Covering all vegetated areas with two feet of clean soil and all non-vegetated areas with either concrete or a paving system.
- Development of a site management plan to address residual contamination and any use restrictions. Future development would be limited to restricted-residential use. Restricted residential development includes a requirement that there be a common or single owner of the property and certain use restrictions.
- Any occupied structure constructed at the site would be required to have an active sub-slab vapor mitigation system to eliminate possible soil vapor impacts from residual soil contamination.
- Development of a site management plan to address residual contamination and any use restrictions.
- Imposition of an environmental easement.
- Annual certification of the institutional and engineering controls.
- Institution of a long term monitoring program.

Costs and Funding for the Site Remedy

The total present worth to construct and implement the proposed remedy is estimated at \$662,000. Funding for this project is expected to continue under the NYS Environmental Restoration Program as part of the \$1.75 billion Clean Water/Clean Air Bond Act of 1996. Under the Environmental Restoration Program, the State provides grants to municipalities to reimburse up to 90

percent of on-site eligible costs and 100 percent of off-site eligible costs for site investigation and remediation activities. Once remediated, the Dino & Artie's property may then be re-used for restricted-residential activity.

Site Investigation

The Town of North Salem conducted a site investigation (SI) under the Environmental Restoration Program. The Town retained Hahn Engineering of Brewster, New York to perform the investigation, which concluded in July 2005. The following activities were conducted as part of the investigation:

- Research of historical information and interviews with local residents;
- Interior floor drain investigation;
- A septic system and dry well investigation;
- A geophysical survey using ground penetrating radar to determine the depth to bedrock;
- Installation of one soil boring and seven monitoring wells for analysis of soils and groundwater as well physical properties of soil and hydrogeologic conditions;
- Collection of 34 discrete subsurface soil samples using a direct push technique;
- Collection of 47 discrete subsurface soils samples by other methods;
- Collection of 8 discrete surface soils samples; and,
- Area private well survey and sampling of ten new and existing on-site monitoring wells, the on-site former supply well, and one off-site private supply well.

Interim Remedial Measures

An interim remedial measure (IRM) is conducted at a site when a source of contamination or exposure pathway can be effectively addressed before completion of the SI/RAR. The following IRMs were performed during the SI:

- removal and proper disposal of 9 underground storage tanks and 3 drywells;

- removal and proper disposal of 900 gallons of various petroleum wastes; and,
- removal and proper disposal of 1,100 cubic yards of contaminated soils.

Site History

Part of the commercial former building on-site that housed the transmission service shop had existed since at

least 1924. The building was expanded in the late 1970's. In addition to housing the transmission shop, the property was also reportedly used as a lumber yard and as a garage. Verbal reports indicated that waste oil was discharge into a septic tank and then pumped out onto the ground. The soil was reportedly so saturated with flammable materials that it caught on fire on more than one occasion. Other specific disposal history is unknown, but the contamination found is typical for what would be expected from an automotive garage with improper housekeeping.

Document Repositories: *To review the complete PRAP and other site related documents:*

Ruth Keeler Memorial
Library of North Salem
276 Titicus Road
North Salem, NY 10560
Phone: (914) 669-5161

Office of the North Salem
Town Clerk
266 Titicus Road,
North Salem, NY 10560
Phone: (914) 669-5577

NYSDEC Region 3 Office
21 S. Putt Corners Road
New Paltz, New York
12561-1696
Phone: (845) 256-3154

NYSDEC
625 Broadway
Albany, New York
12233-7016
Contact: Robert Filkins
Phone: (518) 402-9768

Hours: Mon 12pm - 7pm
Tue, Wed, Fri 10am - 5pm
Thu 10am - 7pm
Sat 10am - 1pm

Hours:
Mon-Fri 9am - 4:30pm

Hours: Mon-Fri 8:30 am -
4:45 pm

Hours: Mon-Fri 8:30
am - 5:00 pm

For More Information: *Call or write the following staff for more information about:*

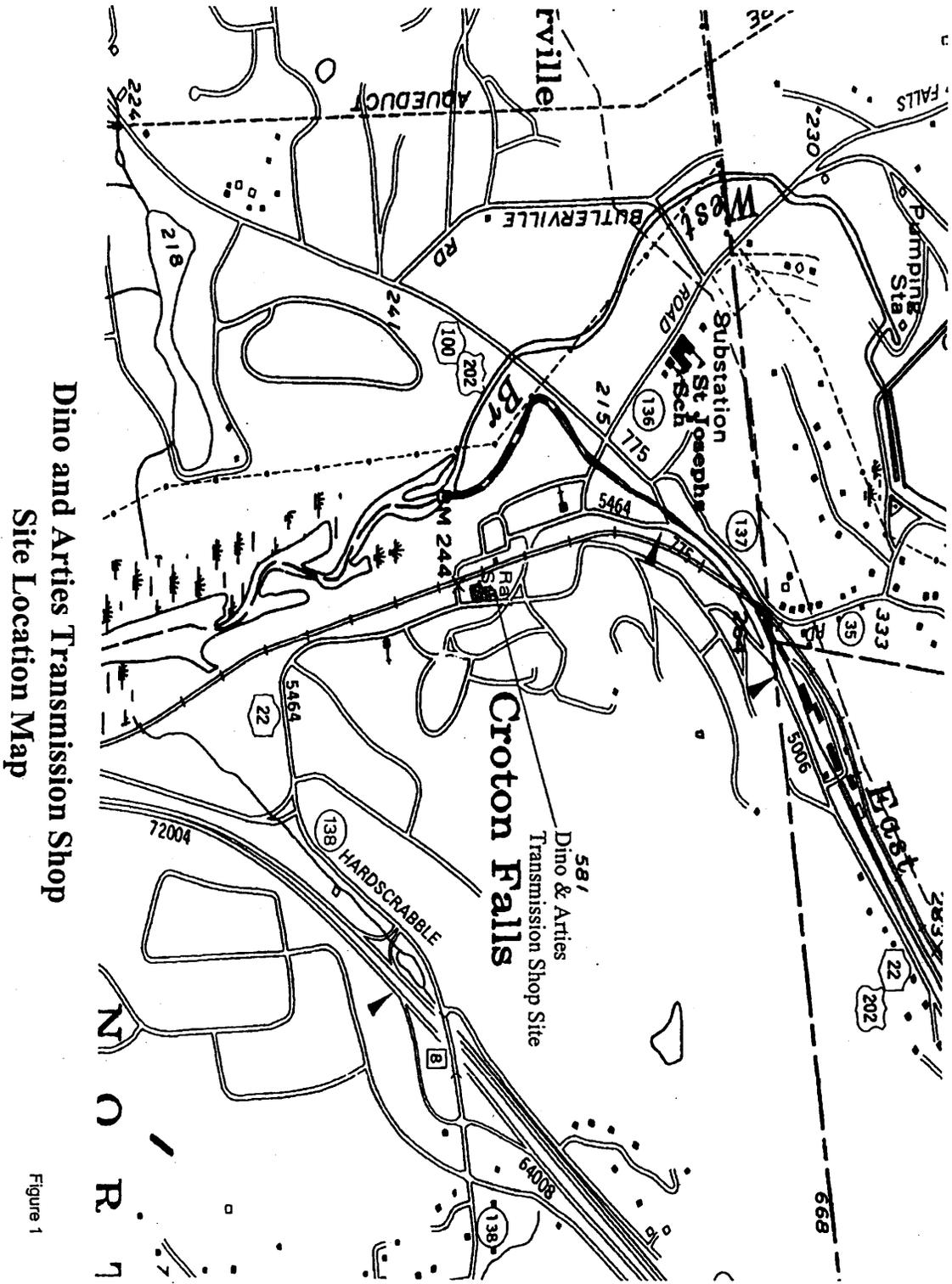
**Meeting/Comment Period/
Technical Information:**
Robert Filkins, Project Manager
NYSDEC
625 Broadway
Albany, New York 12233-7016
Phone: (518) 402-9768

Health-Related Information:
Bridget Callaghan
NYSDOH
Flanigan Square
547 River Street
Troy, New York 12180-2216
Phone: (800)458-1158 ext. 27880

Citizen Participation:
Michael J. Knipping
NYSDEC Region 3
21 South Putt Corners Road
New Paltz, New York 12561-3154
Phone: (845) 256-3154

Environmental Restoration Program Website: <http://www.dec.state.ny.us/website/der/erp/>

PLEASE NOTE: In the event of severe weather conditions on February 22, 2006, the meeting will be rescheduled to 7 p.m., March 8, 2006, at the same venue.



Dino and Arties Transmission Shop
Site Location Map

Figure 1



Department of
Environmental
Protection

Emily Lloyd
Commissioner

Tel. (718) 595-6565
Fax (718) 595-3557

Bureau of Water Supply
465 Columbus Avenue
Valhalla, New York
10595-1336

David S. Warne
Acting Deputy Commissioner

Tel (914) 742-2001
Fax (914) 741-0348

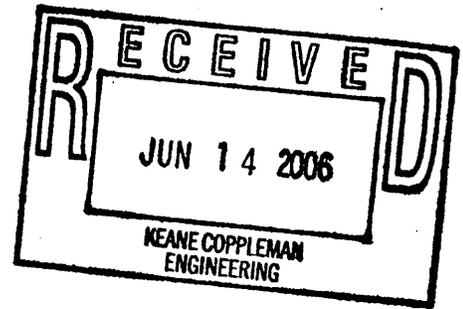
Joseph Maggio, P.E.
Deputy Director
Engineering Division EOH

Tel (914) 773-4470
Fax (914) 773-0343

June 9, 2006

Michael Bontje
B. Laing Associates, Inc.
225 Main Street, Suite 205
Northport, NY 11768

Re: Highgate/Woodlands of North Salem
Stormwater Pollution Prevention Plan
Reed Road
(T) North Salem
DEP Log #1994-MU-0290



Dear Mr. Bontje:

The New York City Department of Environmental Protection (DEP) has determined that the above referenced application, received on June 1, 2006, is *incomplete*. Please be advised that the following information is required before the Department can commence review:

General Requirements:

- 1) A Draft Environmental Impact Statement, pursuant to Section 18-23(c)(2) of the *Rules and Regulations for the Protection from Contamination, Degradation, and Pollution of the New York City Water Supply and Its Sources* (Regulations). As discussed, a Supplemental Draft Environmental Impact Statement has yet to be accepted by the Lead Agency.
- 2) A completed Department Application Form (blank form attached).
- 3) A list of enforcement actions commenced against the applicant for any alleged violations of law related to the activity for which approval is sought.
- 4) A list of related approvals required from any other agency and/or the Department and the status of those approvals.

Project Description & Stormwater Management Plan:

- 5) Survey locations of all watercourses flagged by DEP staff.
- 6) Results of on-site soil analyses with soil test pit locations provided on the plans.
- 7) All infiltration practices require percolation or infiltration tests to be witnessed by Department staff.
- 8) All stormwater treatment practices must be shown on the plan, including infiltration practices for individual lots.
- 9) Treatment of stormwater runoff must be provided for all disturbed areas.
- 10) An analysis of stormwater quality and quantity at each design point, not the overall site. BOD must be included in the pollutant analysis.



www.nyc.gov/dep

(718) DEP-HELP

- 11) Downstream surveys of all watercourses that will receive stormwater discharges from the site including channel cross-sections and roughness, stability, and dominant streambank vegetation. Each design point must be analyzed for each design storm in the pre- and post-development computer models in order to assess the impacts associated with conveying the post-development discharge.
- 12) Label all stormwater management practices on all plans.

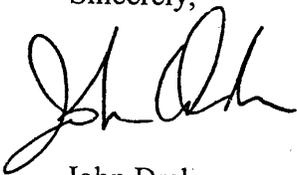
Erosion & Sediment Control Plan:

- 13) A schedule of construction, including implementation of erosion and sediment controls, grading, and site stabilization. The development phasing sequence provided does not constitute a construction sequence, as it lacks details as to how construction of how each development phase will progress in terms of implementing adequate erosion and sediment controls while grading a stabilizing the disturbed areas.
- 14) Calculations used in siting and sizing all erosion and sediment control practices. It appears that permanent stormwater practices will be used as temporary sediment basins. Details of temporary outlets must be provided. Please note that sediment basins must be designed to hold 3,600 cubic feet of sediment per acre of contributory drainage area and that infiltration practices cannot be utilized as construction-phase sediment basins or traps.

The review of your application will not commence until the Department receives the necessary information and determines that the application is complete. The Department will notify you within 10 days of its receipt of the additional information requested above as to the completeness of your application. Please be advised that failure to submit information to the Department or to follow Department procedures is sufficient grounds to deny approval, pursuant to Section 18-23(b)(2).

If you have any questions, please call the undersigned at (914) 742-2025.

Sincerely,



John Drake
Associate Project Manager
Project Review

xc: (T) North Salem Planning Board
Keane Coppelman Engineers, PC
JoFlo Development Corp.
c/o Alvin Lukashok, President
300 E. 74th St., Unit 6G
New York, NY 10021

APPENDIX B
NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION
APPLICATION FOR REVIEW AND APPROVAL OF STORMWATER POLLUTION
PREVENTION PLANS AND CROSSING, PIPING OR DIVERSION PERMITS

You are encouraged to participate in an optional pre-application conference to discuss your proposal and any specific requirements for Department review and approval. Please contact the appropriate Department office listed on page 2 of the accompanying Applicant's Guide to arrange a pre-application meeting.

Applicant/Designated representative:

Name: _____

Address: _____

Phone: _____

Design Professional:

Name: _____

Address: _____

Phone: _____

Project Location:

Address: _____

Town: _____

Subdivision name: _____

Reservoir Basin: _____

Tax Map Parcel: _____

County: _____

Lot number: _____

Type of Approval Sought: Stormwater Pollution Prevention Plan
 Crossing, Piping or Diversion Permit

Submissions must include four copies of all plans and supporting documents.

All applications must include narratives, plans, details, and specifications providing the following information:

- Project Description
- Description of Existing Conditions
- Description of Proposed Conditions
- Operations and Maintenance Plans

General Requirements for submission are set forth in Section 3.1 of the accompanying Guide. Supplemental required information for each type of approval is described in Sections 3.2 and 3.3 (Stormwater Pollution Prevention Plans and Crossing, Piping or Diversion Permits, respectively). Also see Appendix A for a checklist of items to be included in the submission.

Notice of Cost-Sharing Funds

Certain costs incurred in the design, implementation, and maintenance of Stormwater Pollution Prevention Plans may be eligible for Department funding. Refer to Section 4.0 and Appendix F of the accompanying Guide.

I believe this application to be complete and in compliance with the Regulations.

(Signature)

(Filing Date)

(Print Name)



Department of
Environmental
Protection

August 14, 2006

Michael Bontje
B. Laing Associates, Inc.
225 Main Street, Suite 205
Northport, NY 11768

Re: Highgate/Woodlands of North Salem
Stormwater Pollution Prevention Plan
Reed Road
(T) North Salem
DEP Log #1994-MU-0290

Emily Lloyd
Commissioner

Tel. (718) 595-6565
Fax (718) 595-3557

Bureau of Water Supply
465 Columbus Avenue
Valhalla, New York
10595-1336

U S. Warne
ing Deputy Commissioner

Tel (914) 742-2001
Fax (914) 741-0348

Joseph Maggio, P.E.
Deputy Director
Engineering Division EOH

Tel (914) 773-4470
Fax (914) 773-0343

Dear Mr. Bontje:

This letter serves to follow up our site visit conducted on August 1, 2006 with regard to the status of the watercourse discharging to design point 3. Based on this site visit, this watercourse is considered an intermittent watercourse. As such, construction of an impervious surface for the proposed road within 50 feet of this watercourse shall require a variance from Section 18-39(a)(6)(ii) of the Regulations.

If you have any questions, please call the undersigned at (914) 742-2025.

Sincerely,

John Drake
Associate Project Manager
Project Review

xc: (T) North Salem Planning Board
Keane Coppelman Engineers, PC
JoFlo Development Corp.
c/o Alvin Lukashok, President
300 E. 74th St., Unit 6G
New York, NY 10021



**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, New York 10516

Phone (845) 265-4400

Fax (845) 265-4418

January 11, 2008

Ms. Liz Axelson
Director of Planning
Town of North Salem
266 Titicus Road
North Salem, New York 10560

Dear Ms. Axelson:

Enclosed, please find ten (10) copies of the DRAFT Well Testing Protocol for the Woodlands at North Salem, NY. As described in the Protocol, the testing procedures are consistent with current well testing standards and Westchester County Department of Health guidelines. As we discussed, an initial draft of the Protocol was sent via E-mail to your office and the Town's consulting hydrogeologist, Mr. Russell Urban-Meade, of the Chazen Companies. Mr. Urban-Meade provided us with several minor comments which have been incorporated into the attached draft.

We look forward to meeting with you and the Town Board to discuss the Well Testing Protocol, at your earliest convenience. Please call me if you have any questions or require additional information.

Sincerely,



Jon P. Dahlgren
Vice President/ Senior Geologist
TIM MILLER ASSOCIATES, INC.

Enclosure

C: Mr. Russell Urban-Meade, Chazen Companies
Ms. Hilary Smith, Matthew D. Rudikoff Associates, Inc.
Ms. Louis Doyle, WCDOH
Mr. Sergio Smiriglio, SSEC
Mr. Anthony Miceli, A. Miceli Associates, Inc.

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.c

January 30, 2008

Mr. Paul Greenwood, Supervisor
Town of North Salem
266 Titicus Road
North Salem, New York 10560

Re: Well Testing for The Woodland at North Salem (AKA JoFlo)

Dear Mr. Greenwood:

Tim Miller Associates initiated the protocol for well testing at the subject site in response to comments made by the town of North Salem consultants on the Draft EIS submitted last year. We intended to have this work completed during the month of January.

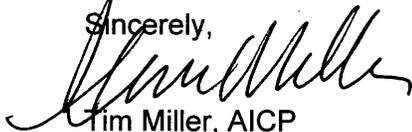
In December we sent questionnaires to neighboring property owners for permission to potentially monitor their wells and we have received responses back from a sufficient number to allow us to move forward. The protocol for the actual test was coordinated with Russell Urban-Meade of Chazen Companies. This procedure for the 72 hour pump test of the onsite wells is very standard and consistent with requirements for community water supply plans throughout the region.

Your planning department suggested that it may be desirable to advise the Town Board of our plans. We are happy to do that. However, we are under some time pressure to get this work done, and much time has past since we initiated these efforts.

If you would like to meet with us, we wish to do so at your earliest convenience. Otherwise, we are anxious to start testing so that we may complete this work, given the time constraints connected with this project.

If you believe it desirable to meet, please advise as to available times. If not, we very much wish to start the pump testing.

Sincerely,



Tim Miller, AICP
President
TIM MILLER ASSOCIATES, INC.

C: Russell Urban-Meade, Chazen Companies
A. Lukaschok, JoFlo, Inc.
A. Miceli, A. Miceli Associates, Inc.



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

REPLY TO
ATTENTION OF:
Regulatory Branch
Eastern Permits Section

MAY 03 2008

SUBJECT: Permit Application Number NAN-1995-651-EYO by Town of North Salem, N.Y.

Town of North Salem
C/O B. Laring Associates
225 Main Street
Northport, N.Y. 11768
ATTN: N. Bontje

Dear Town of North Salem:

On April 3, 2008, the New York District, U.S. Army Corps of Engineers received a request for Department of the Army authorization to construct a bridge, in the Lower Hudson watershed, in the Town of North Salem, Westchester County, New York.

Our review indicates that since the proposed work does not appear to include dredging or construction activities in or over any navigable waters of the United States, the placement of any dredged or fill material in any waters of the United States (including coastal or inland wetlands) or the accomplishment of any work affecting the course, location, condition or capacity of such areas, a Department of the Army permit, in accordance with 33 CFR 320-330, will not be required provided the proposed work is executed in accordance with the referenced material.

Care should be taken so that any fill or construction materials, including debris, do not enter the waterway to become a drift or pollution hazard. You are to contact appropriate state and local government officials to ensure that the subject work is performed in compliance with their requirements.

If any questions should arise concerning this matter, please contact Mr. Larry Young, of my staff, at (917) 790-8425.

Sincerely,

George Nieves
For Chief, Eastern Permits Section

07117
MD



NEW YORK STATE POLICE

**Troop "K" Headquarters
2541 Route 44
Salt Point, NY 12578**

HARRY J. CORBITT
SUPERINTENDENT

WILLIAM T. CAREY
TROOP COMMANDER

September 8, 2008

Ms. Marcy Denker
Tim Miller Associates, Inc.
10 North Street
Cold Spring, NY 10516

Dear Ms. Denker:

Reference is made to your correspondence dated September 3, 2008 regarding the Draft Environmental Impact Study (DEIS) your office is preparing for a project on Reed Road in the Town of North Salem.

Though the proposed subdivision will likely increase the number of calls for police service in the Town of North Salem, the New York State Police does have the capacity to respond to the proposed project in a way that would not adversely impact our ability to respond to emergencies elsewhere within Westchester County, and more specifically, the Town of North Salem.

Sincerely,

William T. Carey
Major - Troop "K" Commander

Police Services Questionnaire
Highgate/Woodlands Project

1. Please describe the current manpower and equipment levels of the Department.

Presently, we have adequate manpower, however, we are in need of more vehicles to provide the necessary services to our residents. Also, we are in need of a larger and better equipped headquarters.

2. What is your current service area and the population served?

We service the entire Town of North Salem. We also provide mutual aid to our neighbors in the Towns of Lewisboro and Somers. Now and then we are requested to go on Interstate 684 and help SP Somers with accidents.

3. How many calls for service does the Department receive per year? Please break the calls down by type (residential, commercial/retail, industrial etc.) if possible.

I don't have calls broken down by category but this is what has been happening. In 2005 we had 948 calls. In 2006 we had 958 calls and in 2007 we had 1006. The number of calls keeps increasing each year. As state budgets get tighter and tighter I expect that number to jump as there will be less state troopers in Somers to handle the calls that we don't now.

4. Location (s) of station(s) nearest to the site.

We only have one station and it is at Town Hall. I'm estimating it is about 5 miles away.

5. Estimated response time to the site.

Depending upon traffic, I'm estimating about 8 minutes.

6. Describe any existing plans, if any, for your station to expand its staffing, facilities, and/or equipment.

Presently, there are no plans to expand staffing or facilities. I do expect to get at least one new vehicle next year...2008.

7. Would the proposed development require any expansion of the department's staffing, facilities, and/or equipment?

I don't expect we would need any expansion of the department based solely on this development.

8. Please review the enclosed site plans and comment on the site access and any other aspects of the plan relevant to fire protection services. Please note the townhouse development at the center of the site would be an "Active Adult Community" for senior citizens.

I'm very concerned if people want to open up the emergency entrance on Sun Valley Drive to use this as an ingress and egress to this development. The intersection of Sun Valley Drive and Route 22 at rush hour is near impossible. There is no way this intersection could handle any more vehicles.

Completed by Thomas S. Howley
Thomas S. Howley, Chief

Date: 9/22/08



Westchester EMS
444 East Main Street
Mt. Kisco, NY 10549
Tel. (914) 244-0440
Fax (914) 244-0173
www.westchesterems.org

October 15, 2008

Tim Miller Associates
10 North Street
Cold Spring, New York 10516

Re. Environmental Impact Statement
Woodlands Project, North Salem

Marcy Denker,

In response to your request for information regarding the advanced life support services provided by Westchester EMS to the Town of North Salem and the proposed Woodlands Project, the following responses were prepared.

1. Westchester EMS provides Advanced Life Support Services to a consortium of eight towns in the Northern Westchester area, and includes a population of nearly 100,000 residents. These include the towns of New Castle, North Castle, Mt Kisco, Bedford, Pound Ridge, Lewisboro, North Salem, and Somers. Our Paramedic service provides Advanced Life Support services to augment each town's volunteer Basic Life Support services. WEMS provides three Paramedic Fly Cars for this service that are staffed 24 hours per day. WEMS employees 14 full time and 13 per diem Paramedics available to staff this service.
2. Call volume in this system has been increasing at a rate of nearly 9 % per year for the past 3 years. 2007 total system requests for Advanced Life Support were 4597. North Salem's total ALS call volume was 321 for year 2007 and represents a 7% increase over the past 3 years.
3. We have not identified any previous significant demand from professional office complexes.
4. Equipment on hand for WEMS to provide the ALS service includes;
 - a. 6 ALS Paramedic response vehicles with communication systems enabling the Paramedic to communicate with the local police and fire agencies, County (60) Control, other EMS agencies, hospitals, and the other Fly-cars.
 - b. 5 sets of ALS and BLS patient care gear.

Our Fly Cars are strategically placed in three locations around the coverage area and adjust their positions as necessary to maintain optimal response times as units are utilized on calls.



Westchester EMS
444 East Main Street
Mt. Kisco, NY 10549
Tel. (914) 244-0440
Fax (914) 244-0173
www.westchesterems.org

5. ALS Fly Cars responding to this site would in most cases be originating from our post in Somers at the Lincolndale fire house. The average response time to this area has been approximately 9 minutes.
6. Anticipated needs to meet future demand would include resources to meet the growing call volume system wide. This would be based on actual impact to medic availability and response times. We currently have no plans for expanding our staffing or operations.
7. In a comparative look at the Heritage Hills development in Somers, and the Riverwoods Development in New Castle we found the following.
 - a. As reported by Heritage Hills Security, Heritage Hills consists of 2200 units with a population of nearly 5000, 80% of whom are considered seniors. We identified 312 Paramedic requests in year 2007, equaling 6% from the population.
 - b. Riverwoods Development as reported by New Castle assessor's office consists of 148 units, and no population was given. We assumed approximately 350 residents of a primarily middle aged demographic, and identified 12 Paramedic requests for the year 2007, equaling 3.5%
 - c. The Woodland Project development will consist of 123 units and if the demographic is primarily middle aged or younger, and we also assume a population of 300, we can predict at the 3.5% rate approx 10 ALS requests per year. If the demographic consists of primarily seniors, the 6% rate would equal 18 calls per year. This in addition to the 7% annual call volume increases experienced by North Salem over the past 3 years would represent a 13% or 15% increase for North Salem the first year. These additional calls would amount to less than a 1% system increase.
8. This estimated added number of ALS requests alone would not greatly impact our operation or service delivery. The approximately 14 added calls also would not significantly affect the allocated annual and percentage cost to North Salem for the Advanced Life Support Services.

Respectfully,

Donald Cottle
QA Manager
Westchester EMS
914-244-0440 ext 12
dcottle@stellarishealth.org

**Fire Services Questionnaire
Highgate Woodlands Project**

1. Please describe the current manpower and equipment levels of the Department.

See attached - Mutual Aid available by
Surrounding Towns

2. What is your current service area and the population served?

6,000

3. How many calls for service does the Department receive per year? Please break the calls down by type (residential, commercial/retail, industrial etc.) if possible.

see attached

4. Location(s) of station(s) nearest to the site.

301 Titicus Rd, North Salem
1 Front Street, Croton Falls

5. Estimated response time to the site.

4 minutes

6. What is the maximum height of building that your firefighting equipment can accommodate?

35 ft ladders without mutual aid

6. Describe any existing plans, if any, for your station to expand its staffing, facilities, and/or equipment.

New building - substation at 301 Titicus Rd
North Salem

7. Would the proposed development require any expansion of the department's staffing, facilities, and/or equipment?

NO

8. Please review the enclosed site plans and comment on site access and any other aspects of the plan relevant to fire protection services. Please note that the townhouse development at the center of the site would be an "Active Adult Community" for senior citizens.

reviewed w/ planning board
and Tim Miller Associates

9. The Scoping Outline for this project refers to "concerns raised in a fire commission study pertaining to the Croton Falls project site." Please comment, if possible, on these concerns.

water

Completed by: Marian Fack / Secretary

Date: 10/8/08

Please return to:

Marcy Denker
Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516
Phone: (845) 265-4400 Fax: (845) 265-4418
Email: mdenker@timmillerassociates.com

CROTON FALLS FIRE DISTRICT
Serving the Towns of Carmel, North Salem and Southeast
CROTON FALLS, NEW YORK 10519

TRUCKS and EQUIPMENT

1. One (1) Class A Tanker/Pumper – (Gowans Knight)
 2750 gallon water capacity
 1500 gallons per minute pump
 35' extension ladder
 completely refurbished in 1990 at a cost of \$100,000.00
2. One (1) Class A Pumper – 2005 Custom Simon Duplex (Gowns Knight)
 1000 gallon water capacity
 1500 gallons per minute pump
 35' extension ladder
3. One (1) Class A Pumper – 2000 Sparton Gladiator (Gowans Knight)
 1000 gallon water – sogal's foam
 1500 gallons per minute pump
 35' extension ladder
4. One (1) Class A Pumper – 1994 Custom Simon Duplex (Gowans Knight)
 750 gallon water capacity
 1500 gallons per minute pump
 35' extension ladder
5. Two (2) Mini Attack/Rescue John Bean High Pressure – UA Approved
 One (1) 1987 – 250 gallon water capacity, Ford John Bean FMC
 One (1) 1993 – 400 gallon water capacity – with "Jaws of Life", Rescue and
 First aid equipment – International John Bean/Gowans Knight.
6. One (1) Rescue Truck – 1998 Custom Simon duplex (Gowans Knight)
 "Jaws of Life" and much assorted rescue and first aid equipment.
 Cascade Air System for SCBA.
7. One (1) 1985 16 foot Starcraft John Boat; 4hp Johnson outboard motor with trailer
 One (1) 2002 12foot Zodiac Boat; 15hp Mercury Outboard
8. Three (3) Chief's cars:
 1999 Ford Explorer Command Post
 2001 Dodge Durango Command Post
 2003 Dodge Durango Command Post
8. One (1) 2003 International Utility Truck
 Cascade air system for SCBA, air compressor, generator, air bags, HAZMAT equipment, Incident
 Command equipment, rescue equipment, other rescue related equipment, safety vests.

Over 2 miles of 5 inch hose on trucks. (cumulative)

No fire hydrants in town. This is the reason for trucks with large water capacity.

Two (2) Fire Houses: Main House located at Route 22 and Front Street in Croton Falls
 Sub Station is located on ~~Route 116~~ in North Salem

301 Titicus

Less than a 4 minute response time throughout the Croton Falls Fire District.

CROTON FALLS FIRE DISTRICT
Serving the Towns of Carmel, North Salem and Southeast
CROTON FALLS, NEW YORK 10519

Mutual Aid Fire Departments (all volunteer)

Brewster
Mahopac

Somers
Katonah

Goldens Bridge
South Salem

It depends on the area of North Salem, which Fire department would be called in first. If a confirmed structure fire occurs, the closest fire Department is called immediately and is on the scene within minutes.

100 members – 50 active.

ISO rating is 9 - no hydrants
Brendan McKenney
~~James O'Rourke~~, Chief

Updated: September 2005

Croton Falls Fire District

Incident Summary by Incident Type

Date Range: From 1/31/2007 To 12/31/2007

Incident Type(s) Selected: All

Incident Type	Incident Count
Fire	43
EMS/Rescue	234
Hazardous Condition	52
Service Call	66
Good Intent	16
False Call	149
Other	1

2007 Totals 561
Calls

North Salem Volunteer Ambulance Corps

P.O. Box 427
Croton Falls, NY 10510
(914) 277-4944

October 10, 2008

Tim Miller Associates, Inc
10 North Street
Cold Spring, NY 10516
Marcy Denker

Dear Marcy,

In response to your request for concerns from the North Salem Volunteer Ambulance Corps regarding the proposed senior housing project on Reed Road I can only give you a generalized assumption.

When it comes to senior housing projects, the impact it will have on an EMS system depends largely on the overall health of the residents and their compliance with their medical regiments.

At this point in time the North Salem Volunteer Ambulance Corps' personnel are all volunteers and at our current call volume we are running at our full capacity. We have 2 ambulances available for emergency response located at 14 Daniel Road which is approximately ½ mile from the proposed location. Although the location is close, the response times would run between 11-14 minutes as the volunteers do not remain in the building.

The Ambulance Corps in no way is discouraging the placement of the project, we in fact encourage it, but the impact to the ambulance corps will most likely result in the need to hire at least one paid EMT 24 hours a day 7 days a week. Unfortunately we would not get a good idea of the full impact until about 6-12 months into the operations of the project.

Please keep in mind the North Salem Volunteer Ambulance Corps is a basic life support ambulance. The advanced life support services, supplied by an outside vendor, would also be affected by this project

If you have any questions please feel free to contact me at 914-879-5954.

Sincerely,

Beth Sanger
Captain

School District Questionnaire **Woodlands Project**

Please provide responses to the following and supplement this with any further information you believe may be helpful to the Town in evaluating this project proposal.

1. Are the schools currently operating at capacity?

Yes

2. Are there any existing plans for staff or facility expansion?

possible program expansion based on student need

3. What percentage of students in the district attend private schools?

We know of 6% due to transporting those pupils.

4. What is the North Salem Central School District budget for the 2008-2009 school year?

38,194,990

5. What percentage of budget is raised by the property tax levy?

84%

6. What is the 2008 student enrollment?

Elementary 281
Middle School 308
High School 1660

7. What is the average annual increase/decrease in enrollment?

less than 1%

8. Describe and quantify projected increases/decreases in enrollment.

minimal

Completed by:

Louise M. Lynch

Date:

10/15/08

Please return to:

Marcy Denker
Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516
Phone: (845) 265-4400 Fax: (845) 265-4418
Email: mdenker@timillerassociates.com

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax
www.timmillerassociates.com

November 5, 2009

Ms. Stacey M. Jensen
Acting Section Chief
Regulatory Branch, Eastern Section
NY District, US Army Corps of Engineers
26 Federal Plaza, Room 1937
New York, NY 10278-0090

RE: Wetlands Jurisdictional Determination Request
Proposed Development: Woodlands at North Salem, Reed Road and I-684
Town of North Salem, Westchester County, NY

Dear Ms. Jensen:

On January 25, 1995, Chief James W. Haggerty of Eastern Permits issued a letter of jurisdictional determination of wetlands on the High Gate Mixed Use project site in the Town of North Salem, Westchester County. As you had indicated in your November 2, 2009 e-mail, the ACOE purges jurisdictional determinations after ten years. We hereby request that you review the materials, data and information contained in this package and schedule a site walk with our staff to verify the wetland boundary as flagged by B. Laing Associates, Inc. (BLA) on the subject property in accordance with the 1987 Corps of Engineers Delineation Manual. Flags were re-hung in 2009 and are visible on site. In support of this request, please find enclosed the following items included herein:

1. A copy of the Wetland Delineation Report prepared by BLA for the original jurisdictional determination in January 1995. This report includes:
 - Descriptions of wetlands found on the project site;
 - A soils map;
 - Photographs of on-site wetlands;
 - Data forms for the Routine Determination Method;
 - A detailed description of the delineation methodology used; and,
 - A Natural Resources Environmental Impact Analysis.
2. A surveyed delineation drawing prepared by Bunney Associates;
3. A USGS Quad Site Location Map showing the project area;
4. A National Wetlands Inventory Map showing the project area;
5. A NYSDEC Wetland Map showing the project area;
6. A figure illustrating the pre-development drainage areas of the project site;
7. Current Photographs of the Wetlands on-site and a photograph location key; and,
8. A copy of the January 25, 1995 jurisdictional determination letter from Chief Haggerty.

Project Description

The applicant proposes to construct a residential development on a 159.92 acre property in the Town of North Salem that is currently undeveloped woodland. Several variations in the design layout have been submitted to the Town's planning board since as early as 1987, with different designs having been progressed to various stages with stipulations. The project is once again undergoing design changes.

Site Location

The subject site is approximately 159.92 acres in size, located in the Town of North Salem, Westchester County, New York. The project site is identified on Town of North Salem tax maps as parcels Sheet C2, Block 11734, Lot 15, 15, and 19. The property is adjacent to Reed Road and I-684 at the with the northern property line sharing the boundary between Westchester and Putnam Counties. The site is currently undeveloped and consists almost entirely of woodlands.

Owner/Applicant Information

JOFLO of North Salem, Inc.
Mr. Alvin Lukashok
525 Main Street
New Rochelle, NY 10801
(212) 472-8567

Site Description and Related Information

The approximately 160 acre property is located within the Croton River drainage basin. The drainage patterns on the site reflect its division by drainage divides as shown in the attached figure of pre-development drainage areas. A large portion of North Salem, including the entire project site lies within the Croton River Drainage Basin and discharges to the Muscoot reservoir. The site is located approximately 1 river mile to the Croton River and approximately 3600 aerial feet to the Croton River. The total annual precipitation for the site averages 44 to 48 inches.

Wetland studies were conducted in September 1994 by staff from B. Laing Associates, Inc. A total of 7.00 acres of wetlands were mapped or about 4.2 percent of the site. In March 2005 (and again in 2006 through 2007), the site was inspected by staff from B. Laing Associates, Inc. to field verify these findings and resurvey the Woodlands site. In 1994, wetland and upland samples were collected to make wetland boundary determinations (see attached Wetland Delineation Report). Many samples were observed in the current efforts but none were recorded. The site's wetlands are predominantly wooded swamps and palustrine systems with the largest system (Wetland A) being a small open pond with an emergent marsh and a hardwood swamp boundary.

Six wetland areas were identified on the project site. Wetland A is the largest of on-site wetlands and consists of 3.52 acres. Wetlands B, C, D, E and F total 3.48 acres. Wetlands B, C, D, E and F are a combination of palustrine forested systems and water courses. These systems are dominated by red maple.

Three watercourses exist on the project site. A perennial RPW (Watercourse # 1) originates in Wetland A and flows southeast through Wetland B before leaving the property. From there, the stream flows through a culvert under a dirt road extension of Reed Road before emptying to an unnamed tributary to the Croton River between Reed Road and I-684. The stream's substrate is composed of sand, gravel, and medium sized stone. The first seasonal RPW (Watercourse # 2) originates in Wetland C and flows south where it connects to Wetland A after approximately 200 feet. The substrate in this stream consists of sand and leaf litter. The second seasonal RPW (Watercourse # 3) originates in Wetland F and flows off of the project site to the northwest where it connects to an unnamed tributary to the Croton River via a culvert underneath Route 202. The intermittent tributary's substrate composition is primarily sand and leaf litter, with some small rocks and gravel.

Wetlands

The re-delineation of wetland boundaries are reflected on the recent survey by Bunney Associates and is attached to this application. The changes to the delineation resulted in relatively small extensions of the originally delineated wetlands delineated in 1996.

The Town of North Salem wetland inspector conducted an inspection of the on-site wetlands with B. Laing Associates, Inc on January 18, 2007 to determine if wetland boundaries had changed, or if additional wetlands had formed, since the wetland boundaries were last confirmed by the Town in 1996 and by the ACOE in 1995. The inspection confirmed that the initially delineated boundaries of the five wetlands remained largely the same. However, during the inspection additional areas of wetlands were found and the boundaries of previously delineated wetlands appeared to have changed somewhat in several locations. The changes to the delineation were relatively minor extensions of the originally delineated wetlands. The following new wetlands, and modifications to previously delineated wetlands, were adjusted and re-surveyed. A previously undelineated spring, and its associated watercourse/wetland east of the northerly end of Wetland F was delineated and added to the plan. The following additional changes were made as well:

- The watercourse (Watercourse # 3), which discharges off-site from the north end of Wetland F, is also now depicted on the plan.
- Wetland D/E was slightly expanded and an intermittent connection to Wetland C was added.
- A small finger of wetland was added to the west side of Wetland F.
- An additional area of wetlands was added to northwesterly corner of Wetland A.
- The westernmost boundary of Wetland A was slightly expanded.
- The southerly, mid-portion of Wetland B was expanded southward.

The noted wetland boundary revisions did not alter the vegetation, soils, or descriptions in the 1995 Wetland Delineation Report. To the extent hydrology has changed (a few new springs and a new intermittent connection), these changes are noted in the following descriptions of wetlands.

Wetland A Functions

Wetland A is located in the site's eastern central portion and is a dominantly open pond-emergent marsh with a hardwood swamp edge dominated by red maples. It is an area of mostly emergent vegetation and shallow open water surrounded by gently rising slopes. The amount of open water has declined by at least half since 1995 (the vegetated fringe has increased by the same amount).

This wetland is effective for sediment stabilization and nutrient removal/transformation. The area is also a location for ground water discharge. Production export is high when water levels are high, which is usually in all months except July and August. Aquatic and wildlife diversity is high because of the complexity of the environment and the presence of standing water.

Wetland A Vegetation

Wetland A is the largest wetland system delineated on the site. The wetland is dominantly an open pond-emergent marsh with a diverse vegetative community. The border of the marsh is a traditional hardwood swamp with a shrub/scrub wetland extending west. The following species have been identified in this wetland: red maple, ironwood, smooth alder (*Alnus rugosa*), winterberry, tussock sedge (*Carex stricta*), swamp milkweed (*Asclepias incarnata*), marsh fern (*Thelypteris thelypteroides*), bur-reed (*Sparganium sp.*), beggar-ticks (*Bidens sp.*), meadow sweet (*Spirea salicifolia*), maleberry (*Lyonia ligustrina*), water horehound (*Lycopus americanus*), marsh marigold (*Caltha palustris*), false nettle (*Boehmeria cylindrica*), and jewelweed (*Impatiens capensis*).

Wetlands B, C, and F Functions

These three wetlands are mostly composed of narrow watercourses with flanking areas of hydrophytic vegetation and hydric soils. The three watercourses also delineated on site run approximately down the middle of these wetlands (with one interconnecting wetland C to wetland A). These wetlands are areas of ground water discharge and recharge (storm water). Effectiveness in sediment stabilization is low, particularly when flows are elevated. Because sediment stabilization is low, so is nutrient removal and transformation. When these wetlands flow, time of contact of nutrients with surface areas are reduced. This reduces the potential for nutrient removal/transformation. Aquatic and wildlife diversity is limited because water levels are variable and intermittent. Production export is also limited by water volumes but has high potential when levels increase.

Wetlands B, C, and F Vegetation

These wetlands are mostly composed of narrow watercourses that drain the majority of the property. The red maple-hardwood swamp wetland communities are wooded wetland communities with a dense over story and moderately distributed understory and herbaceous layer. The over story is dominated by red maple. Other species dominant in the overstory, but to a lesser extent, include American elm, swamp white oak (*Quercus bicolor*) and white ash. The canopy layer is relatively dense, or closed, allows only minimal light to the sub-surface. The shrub layer is denser in the wetlands than the uplands. The understory is dominated by barberry, red-osier dogwood (*Cornus stolonifera*), arrowwood, winterberry, spicebush (*Lindera benzoin*), and some highbush blueberry (*Vaccinium corymbosum*). Saplings of red maple also occur frequently in the

understory. The herbaceous layer is even further diminished by the interception of light in the shrub layer, but where present, is dominated by cinnamon fern (*Osmunda cinnamomea*), sedges (*Carex sp.*), sensitive fern, and jewelweed with some sphagnum moss (*Sphagnum sp.*) and trout lily (*Erythronium americana*). These palustrine, forested, vegetative communities are described above but the understory is very limited in steep areas by the shallow soil and alternating very wet and very dry conditions associated with these steeper watercourses. In areas where the topography flattens out and the soils deepen, the understory becomes more pronounced.

The overstory ranges from 35' to 80' in height with nearly 100% canopy cover in most locations. Additionally, the herbaceous layer has many seedlings from dominant trees.

Wetland D and E Functions

These two wetlands are small, pocket wetlands that occur in areas of topographic relief and areas of groundwater discharge. These wetlands are connected by a very small, intermittent flow which has been insufficient to create an organized channel. Sediment stabilization is high and nutrient removal/transformation is potentially high depending on hydrological conditions. Production export is low because of the topographic relief and minimal connections. Aquatic and wildlife diversity is limited due to the aerial limits of these wetlands and limited inflows and outflows which reduces the effectiveness for supporting aquatic wildlife.

Wetlands D and E Vegetation

These two wetlands are small, isolated, pocket wetlands that occur in areas of topographic relief. Vegetation found within these wetlands includes red maple, spicebush, American elm, tussock sedge, and arrowwood viburnum. The applicant notes that wetland D/E complex is already subject to disturbance by off-road vehicles utilizing the now vacant parcel. One substantial, eroding trail already cuts through the wetland D's western to northern edge. This activity has caused open, eroded locations within the wetlands. This, in turn, causes accelerated, sedimentation in the wetland.

Wetland Soils

The soils on site which can be described as "wetland soils" are the Leicester Loam and Sun Loam (with Ridgebury inclusion) where water tables from one to one and one half feet below the surface. These soil series have seasonally high water tables at or near the surface which may drop to between one and four feet during the drier parts of the year. All these soils exhibit moderate permeability in the surface with varying permeability in the subsurface and substratum.

Upland Areas

Areas upland of the wetlands consist of oak forest. Vegetation found in the upland forest include red oak (*Quercus rubra*), white oak (*Quercus alba*), black birch (*Betula lenta*), shagbark hickory (*Carya ovata*), red maple, and Norway maple (*Acer platanoides*). Many nonnative, invasive species are present throughout the vegetative stratum. Japanese barberry, multiflora rose, and garlic mustard (*Alliaria petiolata*) can be found throughout the project site.

Ms. Stacey Jensen

November 5, 2009

Please review this material and schedule a member of your staff for a site visit at your earliest convenience in order to issue a jurisdictional determination. Additional information will be provided at your request.

Sincerely yours,

Brian C. Bury
Environmental Scientist/Planner
TIM MILLER ASSOCIATES, INC.

C:

**TIM
MILLER
ASSOCIATES, INC.**

10 North Street, Cold Spring, NY 10516 (845) 265-4400 265-4418 fax www.timmillerassociates.com

January 22, 2010

Mr. Ahmed Soliman
Project Manager
Regulatory Branch, Eastern Section
NY District, US Army Corps of Engineers
26 Federal Plaza, Room 1937
New York, NY 10278-0090

RE: Wetlands Jurisdictional Determination
Proposed Development: Woodlands at North Salem, Reed Road and I-684
Town of North Salem, Westchester County, NY

Dear Mr. Soliman:

After our site walk on November 24, I was able to further investigate the off-site connection of Wetland F to the East Branch of the Croton River. After leaving the northwest corner of the property site, water from Wetland F flows through a culvert under a driveway (which we saw from on-site). After this culvert the water continues to flow approximately 400 feet northwest in a manner similar to that on the project site, meaning there are not clear indicators of bed and banks that would classify this section as a watercourse. After the 400 feet of undefined bed and banks, the water appears to be collected in a man-made pond near a residence along Brewster Avenue (Route 202). The water is released from the man-made pond into what appears to be a perennial RPW with an average width of six feet. This watercourse flows for 300 feet before going through a culvert under Brewster Avenue, then flows another 50 feet before emptying into the East Branch of the Croton River.

In addition to the information regarding the off-site wetland connection, please find a revised map of the wetland survey dated January 12, 2010 with the changes we had discussed during your site visit. Please review this material and respond at your earliest convenience if further information is needed to issue a jurisdictional determination. Feel free to contact myself or Steve Marino at our office with any questions or requests for additional information.

Sincerely yours,

Brian C. Bury
Environmental Scientist/Planner
TIM MILLER ASSOCIATES, INC.

C: Stacey Jensen, ACOE

FEB 21 2013



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
NEW YORK, N.Y. 10278-0090

REPLY TO
ATTENTION OF:

Regulatory Branch

SUBJECT: Permit Application Number NAN-2009-01299-WOR
by JOFLO of North Salem Inc.

Steve Marino
Tim Miller Associates, Inc.
10 North Street
Cold Spring, New York 10516

Dear Mr. Marino:

On November 9, 2009, the New York District of the U.S. Army Corps of Engineers received a request for a Department of the Army jurisdictional determination for the above referenced project. The site consists of approximately 159.52 acres, in the Hudson River watershed, located on Reed Road in the Town of North Salem, Westchester County, New York. The proposed project would involve the construction of a mixed use development to be known as The Woodlands at North Salem.

In the letter received on November 9, 2009, your office submitted a proposed delineation of the extent of waters of the United States within the subject property. A site inspection was conducted by a representative of this office on November 24, 2009, in which it was agreed that changes would be made to the delineation and that the modified delineation would be submitted to this office. On January 26, 2010, this office received the modified delineation.

Based on the material submitted and the observations of the representative of this office during the site visit, this site has been determined to contain jurisdictional waters of the United States based on: the presence of wetlands determined by the occurrence of hydrophytic vegetation, hydric soils and wetland hydrology according to criteria established in the 1987 "Corps of Engineers Wetlands Delineation Manual," Technical Report Y-87-1 that are either adjacent to or part of a tributary system; the presence of a defined water body (e.g. stream channel, lake, pond, river, etc.) which is part of a tributary system; and the fact that the location includes property below

the ordinary high water mark, high tide line or mean high water mark of a water body as determined by known gage data or by the presence of physical markings including, but not limited to, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter or debris or other characteristics of the surrounding area.

These jurisdictional waters of the United States are shown on the drawing entitled "Existing Conditions The Woodlands at North Salem Reed Road and Hardscrabble Road Town of North Salem County of Westchester State of New York", prepared by Keane Coppelman Engineers, P.C., dated January 12, 2010. This drawing indicates that there are three (3) principal wetland areas on the project site which are part of a tributary system, and are considered to be waters of the United States.

The first wetland (Wetlands A and B) is located on the central and eastern portions of the property and is approximately 4.258 acres within the subject property. The second wetland (Wetlands C, D & E) is located approximately 250 feet north of the first wetland and is approximately 0.897 acres. The third wetland (Wetland F) is located approximately 550 feet west of the first wetland and is approximately 1.595 acres within the subject property.

This determination regarding the delineation shall be considered valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

This determination was documented using the Approved Jurisdictional Determination Form. A copy of that document is enclosed with this letter, and will be posted on the New York District website at:
<http://www.nan.usace.army.mil/Missions/Regulatory/JurisdictionalDeterminations/RecentJurisdictionalDeterminations.aspx>

This delineation/determination has been conducted to identify the limits of the Corps Clean Water Act jurisdiction for the particular site identified in this request. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed is a combined Notification of Appeal Process (NAP) and Request For Appeal (RFA) form. If you request to appeal this determination you must submit a completed RFA form to the North Atlantic Division Office at the following address:

Michael G. Vissichelli, Administrative Appeals Review
Officer, CENAD-PD-OR
North Atlantic Division, U.S. Army Engineer Division
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, New York 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by APR 22 2013. It is not necessary to submit an RFA form to the Division Office if you do not object to the determination in this letter.

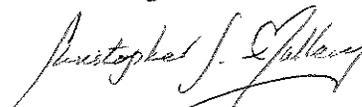
This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

It is strongly recommended that the development of the site be carried out in such a manner as to avoid as much as possible the discharge of dredged or fill material into the delineated waters of the United States. If the activities proposed for the site involve such discharges, authorization from this office may be necessary prior to the initiation of the proposed work. The extent of such discharge of fill will determine the level of authorization that would be required.

In order for us to better serve you, please complete our Customer Service Survey located at <http://www.nan.usace.army.mil/Missions/Regulatory/CustomerSurvey.aspx>

If any questions should arise concerning this matter, please contact Brian A. Orzel, of my staff, at (917) 790-8413.

Sincerely,



Christopher S. Mallery, Ph.D.
Chief, Western Section

Enclosures

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 21-Feb-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2009-01299-JD1

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : NY - New York
County/parish/borough: Westchester
City: North Salem
Lat: 41.3517
Long: -73.6522
Universal Transverse Mercator Folder UTM List
UTM list determined by folder location
 • NAD83 / UTM zone 18N
Waters UTM List
UTM list determined by waters location
 • NAD83 / UTM zone 18N
Name of nearest waterbody: West Branch Croton River
Name of nearest Traditional Navigable Water (TNW): Croton River
Name of watershed or Hydrologic Unit Code (HUC): 02030101

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office Determination Date:
- Field Determination Date(s): 24-Nov-2009

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Wetland AB	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

Area: (m²)
 Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:
 OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
 Not Applicable.

2. Wetland Adjacent to TNW
 Not Applicable.

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

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

(i) General Area Conditions:

Watershed size:
 Drainage area:
 Average annual rainfall: inches
 Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 - Tributary flows through [] tributaries before entering TNW.
- Number of tributaries

Project waters are river miles from TNW.
 Project waters are river miles from RPW.
 Project Waters are aerial (straight) miles from TNW.
 Project waters are aerial(straight) miles from RPW.

- Project waters cross or serve as state boundaries.

Explain:
 Identify flow route to TNW:⁵

Tributary Stream Order, if known:
 Not Applicable.

(b) General Tributary Characteristics:

Tributary is:
 Not Applicable.

Tributary properties with respect to top of bank (estimate):
 Not Applicable.

Primary tributary substrate composition:
 Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
 Not Applicable.

(c) Flow:
 Not Applicable.

Surface Flow is:
 Not Applicable.

Subsurface Flow:
 Not Applicable.

Tributary has:
 Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA Jurisdiction:

High Tide Line indicated by:
 Not Applicable.

Mean High Water Mark indicated by:
 Not Applicable.

(iii) Chemical Characteristics:
 Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
 Not Applicable.

(iv) Biological Characteristics. Channel supports:
 Not Applicable.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Wetland AB	4.26	Forested	Good	No

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Wetland AB	Perennial flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
Wetland AB	Discrete and confined	-

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland AB	-	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland AB	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland AB	1 (or less)	1 (or less)	Wetland to navigable waters	500-year or greater

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
Wetland AB	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland AB	X	-	X	Forested/80%

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
Wetland AB	X	X	Potential habitat for Indiana bat	-	-	-	-	X	-

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

All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

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

Significant Nexus: Not Applicable

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs.⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

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

Wetland Name	Flow	Explain
Wetland AB	PERENNIAL	Water within this wetland flows within the channel of a perennial unnamed tributary to the Croton River. Aerial photography, the Croton Falls, NY USGS quadrangle map, field observations and annual rainfall of 48 inches, indicate that the stream flows all year.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Wetland AB	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	17231.0204024064
Total:		0	17231.0204024064

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰
Not Applicable.

Identify water body and summarize rationale supporting determination:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based 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):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--U.S. Geological Survey map(s)	Croton Falls, NY	-
--USDA Natural Resources Conservation Service Soil Survey.	Westchester County, NY	-
--National wetlands inventory map(s)	Croton Falls, NY	-
--State/Local wetland inventory map(s)	Croton Falls, NY	-
--Photographs	-	-
---Aerial	-	-
---Other	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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

² For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³ Supporting documentation is presented in Section III.F.

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

⁵ Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

⁶ A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷ Ibid.

⁸ See Footnote #3.

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

¹⁰ Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 21-Feb-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2009-01299-JD2

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : NY - New York
 County/parish/borough: Westchester
 City: North Salem
 Lat: 41.3517
 Long: -73.6522
 Universal Transverse Mercator: Folder UTM List
UTM list determined by folder location
 • NAD83 / UTM zone 18N
Waters UTM List
UTM list determined by waters location
 • NAD83 / UTM zone 18N
 Name of nearest waterbody: West Branch Croton River
 Name of nearest Traditional Navigable Water (TNW): Croton River
 Name of watershed or Hydrologic Unit Code (HUC): 02030101

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office Determination Date:
- Field Determination Date(s): 24-Nov-2009

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Wetland CDE	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

Area: (m²)
 Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:
 OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
 Not Applicable.

2. Wetland Adjacent to TNW
 Not Applicable.

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

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

(i) General Area Conditions:

Watershed size: acres
 Drainage area: 30 acres
 Average annual rainfall: 48 inches
 Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 - Tributary flows through [] tributaries before entering TNW.
- Number of tributaries

Project waters are 1 (or less) river miles from TNW.
 Project waters are 1 (or less) river miles from RPW.
 Project Waters are 1 (or less) 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:

Identify flow route to TNW:⁵

Wetland CDE flows directly into a seasonal unnamed tributary to the Croton River, which flows into the perennial unnamed tributary which flows through Wetland AB, then off site. The water then flows into another perennial unnamed tributary then directly into the Croton River.

Tributary Stream Order, if known:
 Not Applicable.

(b) General Tributary Characteristics:

Tributary is:
 Not Applicable.

Tributary properties with respect to top of bank (estimate):
 Not Applicable.

Primary tributary substrate composition:
 Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
 Not Applicable.

(c) Flow:
 Not Applicable.

Surface Flow is:
 Not Applicable.

Subsurface Flow:
 Not Applicable.

Tributary has:
 Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
 Not Applicable.

Mean High Water Mark indicated by:
 Not Applicable.

(iii) Chemical Characteristics:

Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
 Not Applicable.

(iv) Biological Characteristics. Channel supports:
 Not Applicable.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Wetland CDE	.9	Forested	Good	No

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Wetland CDE	Intermittent flow.	-

Surface flow is:

--	--	--

Wetland Name	Flow	Characteristics
Wetland CDE	Discrete and confined	-

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland CDE	-	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland CDE	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland CDE	1 (or less)	1 (or less)	Wetland to/from navigable waters	500-year or greater

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
Wetland CDE	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland CDE	-	-	X	Forested/90%

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic Wildlife Diversity	Explain Findings
Wetland CDE	X	X	Potential Indiana bat habitat	-	-	-	-	-	-

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

All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

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

Findings for: Wetland CDE

Wetland CDE and the seasonal stream that it directly abuts, can retain, convert, and cycle the pollutants from nearby roads and homes that would otherwise directly enter the TNW. Furthermore, during large storm events, the wetlands can serve as a flood storage areas.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:

Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸

Not Applicable.

Provide estimates for jurisdictional waters in the review area:

Not Applicable.

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

Wetland Name	Flow	Explain

Wetland CDE	SEASONAL	Water within this wetland flows within the channel of a seasonal unnamed tributary to the Croton River. Aerial photography, the Croton Falls, NY USGS quadrangle map, field observations clearly showing the on-site seasonal stream, and annual rainfall of 48 inches indicate that the on-site stream flows at least 3 consecutive months.
-------------	----------	--

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Wetland CDE	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	3631.0883765184
Total:		0	3631.0883765184

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰
Not Applicable.

Identify water body and summarize rationale supporting determination:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based 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):

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (ie., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--U.S. Geological Survey map(s)	Croton Falls, NY	-
--USDA Natural Resources Conservation Service Soil Survey	Westchester County, NY	-
--National wetlands inventory map(s)	Croton Falls, NY	-
--State/Local wetland inventory map(s)	Croton Falls, NY	-
--Photographs	-	-
---Aerial	-	-
---Other	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

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

²For 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).

³Supporting documentation is presented in Section III.F.

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

⁵Flow 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.

⁶A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷-Ibid.

⁸-See Footnote #3.

⁹-To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

¹⁰-Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

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

SECTION I: BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 21-Feb-2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: New York District, NAN-2009-01299-JD3

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State : NY - New York
 County/parish/borough: Westchester
 City: North Salem
 Lat: 41.3517
 Long: -73.6522
 Universal Transverse Mercator Folder UTM List
 UTM list determined by folder location
 • NAD83 / UTM zone 18N
Waters UTM List
 UTM list determined by waters location
 • NAD83 / UTM zone 18N
 Name of nearest waterbody: West Branch Croton River
 Name of nearest Traditional Navigable Water (TNW): Croton River
 Name of watershed or Hydrologic Unit Code (HUC): 02030101

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

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office Determination Date:
- Field Determination Date(s): 24-Nov-2009

SECTION II: SUMMARY OF FINDINGS

A. RHA SECTION 10 DETERMINATION OF JURISDICTION

There "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area.

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

Explain:

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

There "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area.

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area:¹

Water Name	Water Type(s) Present
Wetland F	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

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

Area: (m²)
 Linear: (m)

c. Limits (boundaries) of jurisdiction:

based on:
 OHWM Elevation: (if known)

2. Non-regulated waters/wetlands:³

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

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

1. TNW
 Not Applicable.

2. Wetland Adjacent to TNW
 Not Applicable.

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

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

(i) General Area Conditions:

Watershed size: acres
 Drainage area: 35 acres
 Average annual rainfall: 48 inches
 Average annual snowfall: inches

(ii) Physical Characteristics

(a) Relationship with TNW:

- Tributary flows directly into TNW.
 - Tributary flows through [] tributaries before entering TNW.
- Number of tributaries

Project waters are 1 (or less) river miles from TNW.
 Project waters are 1 (or less) river miles from RPW.
 Project Waters are 1 (or less) 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:
Identify flow route to TNW:⁵
 Wetland F flows within the channel of a seasonal unnamed tributary to the East Branch Croton River, then off site. The water then flows into the East Branch Croton River then directly into the Croton River.

Tributary Stream Order, if known:
 Not Applicable.

(b) General Tributary Characteristics:

Tributary is:
 Not Applicable.

Tributary properties with respect to top of bank (estimate):
 Not Applicable.

Primary tributary substrate composition:
 Not Applicable.

Tributary (conditions, stability, presence, geometry, gradient):
 Not Applicable.

(c) Flow:
 Not Applicable.

Surface Flow is:
 Not Applicable.

Subsurface Flow:
 Not Applicable.

Tributary has:
 Not Applicable.

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction:

High Tide Line indicated by:
 Not Applicable.

Mean High Water Mark indicated by:
 Not Applicable.

(iii) Chemical Characteristics:
 Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
 Not Applicable.

(iv) Biological Characteristics. Channel supports:
 Not Applicable.

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland Name	Size (Acres)	Wetland Type	Wetland Quality	Cross or Serve as State Boundaries. Explain
Wetland F	1.59	Forested	Good	No

(b) General Flow Relationship with Non-TNW:

Flow is:

Wetland Name	Flow	Explain
Wetland F	Intermittent flow.	-

Surface flow is:

Wetland Name	Flow	Characteristics
--------------	------	-----------------

Wetland F	Discrete and confined	-
-----------	-----------------------	---

Subsurface flow:

Wetland Name	Subsurface Flow	Explain Findings	Dye (or other) Test
Wetland F	-	-	-

(c) Wetland Adjacency Determination with Non-TNW:

Wetland Name	Directly Abutting	Discrete Wetland Hydrologic Connection	Ecological Connection	Separated by Berm/Barrier
Wetland F	Yes	-	-	-

(d) Proximity (Relationship) to TNW:

Wetland Name	River Miles From TNW	Aerial Miles From TNW	Flow Direction	Within Floodplain
Wetland F	1 (or less)	1 (or less)	Wetland to navigable waters	500-year or greater

(ii) Chemical Characteristics:

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

Wetland Name	Explain	Identify specific pollutants, if known
Wetland F	-	-

(iii) Biological Characteristics. Wetland supports:

Wetland Name	Riparian Buffer	Characteristics	Vegetation	Explain
Wetland F	X	-	X	Forested/90%

Habitat for:

Wetland Name	Habitat	Federally Listed Species	Explain Findings	Spawn Area	Explain Findings	Other Environmentally Sensitive Species	Explain Findings	Aquatic/Wildlife Diversity	Explain Findings
Wetland F	X	X	Potential Indiana bat habitat	-	-	-	-	-	-

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

All wetlands being considered in the cumulative analysis:
Not Applicable.

Summarize overall biological, chemical and physical functions being performed:
Not Applicable.

C. SIGNIFICANT NEXUS DETERMINATION

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

Findings for: Wetland F

Wetland F and the seasonal stream that it directly abuts, can retain, convert, and cycle the pollutants from nearby roads and homes that would otherwise directly enter the TNW. Furthermore, during large storm events, the wetlands can serve as a flood storage areas.

D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE:

1. TNWs and Adjacent Wetlands:
Not Applicable.

2. RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

3. Non-RPWs that flow directly or indirectly into TNWs:⁸
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

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

Wetland Name	Flow	Explain
Wetland F	SEASONAL	Water within this wetland flows within the channel of a seasonal unnamed tributary to the East Branch Croton River. Aerial photography, the Croton Falls, NY USGS quadrangle map, field observations clearly showing the on-site seasonal stream, and annual rainfall of 48 inches indicate that the on-site stream flows at least 3

consecutive months.

Provide acreage estimates for jurisdictional wetlands in the review area:

Wetland Name	Type	Size (Linear) (m)	Size (Area) (m ²)
Wetland F	Wetlands directly abutting RPWs that flow directly or indirectly into TNWs	-	6453.9583952832
Total:		0	6453.9583952832

5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs:
Not Applicable.

Provide acreage estimates for jurisdictional wetlands in the review area:
Not Applicable.

6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs:
Not Applicable.

Provide estimates for jurisdictional wetlands in the review area:
Not Applicable.

7. Impoundments of jurisdictional waters:⁹
Not Applicable.

E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS:¹⁰
Not Applicable.

Identify water body and summarize rationale supporting determination:
Not Applicable.

Provide estimates for jurisdictional waters in the review area:
Not Applicable.

F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements:
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce:
- Prior to the Jan 2001 Supreme Court decision in "SWANCC," the review area would have been regulated based 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):

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:
Not Applicable.

Provide acreage estimates for non-jurisdictional waters in the review area, that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction.
Not Applicable.

SECTION IV: DATA SOURCES.

A. SUPPORTING DATA. Data reviewed for JD

(listed items shall be included in case file and, where checked and requested, appropriately reference below):

Data Reviewed	Source Label	Source Description
--Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant	-	-
--U.S. Geological Survey map(s).	Croton Falls, NY	-
--USDA Natural Resources Conservation Service Soil Survey.	Westchester County, NY	-
--National wetlands inventory map(s).	Croton Falls, NY	-
--State/Local wetland inventory map(s):	Croton Falls, NY	-
--Photographs	-	-
---Aerial	-	-
---Other	-	-

B. ADDITIONAL COMMENTS TO SUPPORT JD:

Not Applicable.

¹-Boxes checked below shall be supported by completing the appropriate sections in Section III below.

²-For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

³-Supporting documentation is presented in Section III.F.

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

⁵-Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

⁶-A natural or man-made discontinuity in the OHWM does not necessarily sever jurisdiction (e.g., where the stream temporarily flows underground, or where the OHWM has been removed by development or agricultural practices). Where there is a break in the OHWM that is unrelated to the waterbody's flow regime (e.g., flow over a rock outcrop or through a culvert), the agencies will look for indicators of flow above and below the break.

⁷-Ibid.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: JOFLO of North Salem Inc.	File Number: NAN-2009-01299-WOR	Date: FEB 21 2013
Attached is:		See Section Below
<input type="checkbox"/>	INITIAL PROFFERED PERMIT (Standard Permit or Letter of Permission)	A
<input type="checkbox"/>	PROFFERED PERMIT (Standard Permit or Letter of Permission)	B
<input type="checkbox"/>	PERMIT DENIAL	C
<input checked="" type="checkbox"/>	APPROVED JURISDICTIONAL DETERMINATION	D
<input type="checkbox"/>	PRELIMINARY JURISDICTIONAL DETERMINATION	E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_permit.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 New York 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 (JD) 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 New York District Engineer. Your objections must be received by the New York 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 New York 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 New York 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 New York 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 North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. 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 North Atlantic Division Engineer, ATTN: CENAD-PD-PSD-O, Fort Hamilton Military Community, Building 301, General Lee Avenue, Brooklyn, NY 11252-6700. 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 North Atlantic Division Engineer within 60 days of the date of this notice with a copy furnished to the New York District Engineer.

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:

Jodi M. McDonald
U.S. Army Corps of Engineers, New York District
Jacob K. Javits Federal Building
New York, NY 10278-0090
(917) 790-8720

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

Michael G. Vissichelli, Administrative Appeals Review
Officer, CENAD-PD-OR
North Atlantic Division, U.S. Army Engineer Division
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, NY 11252-6700
(347) 370-4663
E-mail: Michael.G.Vissichelli@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.

Signature of appellant or agent.	Date:	Telephone number:
----------------------------------	-------	-------------------