



TOWN OF HENRIETTA  
 APPLICATION TO TOWN BOARD  
 - SPECIAL USE PERMIT -

Appeal No. SP 2021-034  
 Date 01/26/2022 - updated application

TOWN OF HENRIETTA  
 County of Monroe • State of New York  
 475 Calkins Road, P.O. Box 999, Henrietta, N.Y. 14467  
 (585) 334-7700 • [www.henrietta.org](http://www.henrietta.org)

I (We) Bernard Iacovangelo, President  
 Business Name: Forest Creek Equities Corp.  
 Contact Info: [Redacted]  
 Business Address: 3240 Chili Ave, Rochester N.Y. 14624  
 Property Owner: Same

Hereby request from the Town Board for a Special Use Permit for the property located at:  
Erie Station Rd. @ Scottsville West Henrietta Rd, Henrietta, N.Y. 14467  
187.02-2-4.111 / 187.04-2-3.111 / 187.02-2-8 Planned Unit Development  
187.02-2-9 / 187.02-2-10  
 If property is under a purchase option, indicate date option expires: OWNER

Under the Zoning Ordinance, a Special Permit is requested pursuant to:  
 Article: V Section: 295 Subsection: 33 Paragraph: (A) of the Zoning Ordinance.  
 Description of Proposal: P.U.D. residential development with  
130 single family lots, minimum lot size 70' wide x 130' deep

Multiple Dwelling Applications – Dwelling Units per Acre: 130 Units / 55.7 Ac = 2.33 units/Ac  
 Does this exceed allowed amount per Henrietta Code §295-13[E](1)(b)  Yes  No  
 Architect/Engineer: D.S.B. ENGINEERS  
2394 Redway Ave Rochester N.Y. 14626

Signature of Owner or Leasee: Bernard Iacovangelo, Pres. 3/26/2021  
 NOTE: If signature is other than owner, written authorization from owner must accompany application. Acceptance of this form is tentative and it will not be processed if incorrectly filed.

Signature of Agent: [Signature]  
returning 1/26/2021 6:00pm

Statement of Applicant and Owner with Respect to Reimbursement  
of Professional and Consulting Fees

In conjunction with an application made to the Town of Henrietta, the undersigned states, represents and warrants the following:

- 1) I/We am/are the applicant and owner with respect to an application to the Town of Henrietta.
- 2) I/We have been advised of, are aware of and agree to comply with the obligation to reimburse the Town of Henrietta for any and all professional and consulting fees incurred by the Town in conjunction with this and any other applications by me/us, including but not limited to engineering and/or legal fees, all as more fully set forth in the Henrietta Town Code.
- 3) I/We have been provided with, or have otherwise reviewed the Henrietta Town Code provisions related to the obligation to reimburse the Town with respect to professional and consulting fees, and agree to comply with the same.
- 4) I/We understand that this obligation shall not be dependent upon the approval or success of the application.
- 5) I/We further agree that in the event the Town of Henrietta is required to refer for collection an outstanding debt for such professional and/or consulting fees due to the Town of Henrietta, I/we shall be obligated to pay the reasonable attorney's fees incurred as a result of the Town's efforts to collect such fees. Reasonable attorney's fees shall also include any and all disbursements that may result from the commencement of litigation.
- 6) Each party to the application, including the applicant and the owner, shall be jointly and severally liable for all consulting and professional fees and expenses incurred in conjunction with the application.

Applicant: Forest Creek Equity Corp.

By: Benjamin J. Jacobowitz, Pres.

Title: President

Dated: 3/26/2021

Signed: Benjamin J. Jacobowitz, Pres.

Owner: Forest Creek Equity Corp.

By: Benjamin J. Jacobowitz

Title: President

Dated: 3/26/2021

Signed: Benjamin J. Jacobowitz, Pres.

# D.S.B.

ENGINEERS & ARCHITECTS, P.C.

2394 Ridgeway Avenue, Suite 201 Rochester, N.Y. 14626

(585) 271-5230

Fax: (585) 271-3488

E-mail: [wfbaker@aol.com](mailto:wfbaker@aol.com)

January 11, 2022

Henrietta Town Board  
Town of Henrietta  
475 Calkins Road  
Henrietta, New York 14467

RE: Special Use Permit for The Fairways at Riverton (aka Riverton Parcels A & B) Erie Station Road and Scottsville-West Henrietta Road, Town of Henrietta

Dear Board Members,

On behalf of our client, Forest Creek Equity Corp., we respectfully request to be placed on the January 26, 2022 Town Board agenda for a Special Use Permit for The Fairways at Riverton Project, RIVERTON P.U.D. (Planned Unit Development). Per the Code and the RIVERTON P.U.D., no multiple dwelling or group of multiple dwellings shall be erected or altered until a special permit has been granted by the Town Board. Our proposal is to continue the Riverton residential community with 130 single lots on 55.7 acres (aka Riverton Parcels A & B) intended to meet the housing needs of current and future residents in the Town.

There is One housing type in The Fairways at Riverton:

- Single Family - A single lot area, defined as standalone single-family home on their own parcel (130 Lots). The single lot area design is for buyers that are interested in single- or two-story home with an individual lot/yard. All the homes will be on individual utility services and dedicated road system with dedicated sidewalks.

There will not be any Town Houses, Garden Apartments or Apartment Buildings. Therefore, the mix of housing types for The Fairways at Riverton (aka Riverton Parcels A & B) is as follows:

Single Family –  
Single lot area, defined as standalone single-family homes (130 homes)

## OVERALL HOUSING BREAKDOWN FOR THE RIVERTON P.U.D.

Housing Type	Current Breakdown		Added Units	Proposed Breakdown		Target %
	Units	%		Units	%	
Single Family	570	51.2%	130	700	56.3%	35.0%
Town House	139	12.5%		139	11.2%	18.0%
Garden Apartment	273	24.5%		273	22.0%	35.0%
Apartment Building	131	11.8%		131	10.5%	12.0%
Total Units	1113	100.0%		1243	100.0%	100.0%


January 11, 2022  
The Fairways at Riverton  
2 of 2

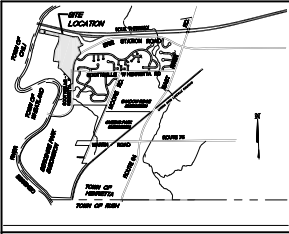
Enclosed please find the following items for your review and approval with respect to the above referenced project:

- Ten (10) Application Form
- \$150.00 Application Fee
- Ten (10) Concept Plans
- Ten (10) Letters of Intent
- Ten (10) Long Form EAF Part 1
- Signed statement of applicate for reimbursements.
- Electronic copy of application

We appreciate your consideration on this matter, and if you have any questions prior to the Board meeting, please contact me at 271-5230.

Yours truly,

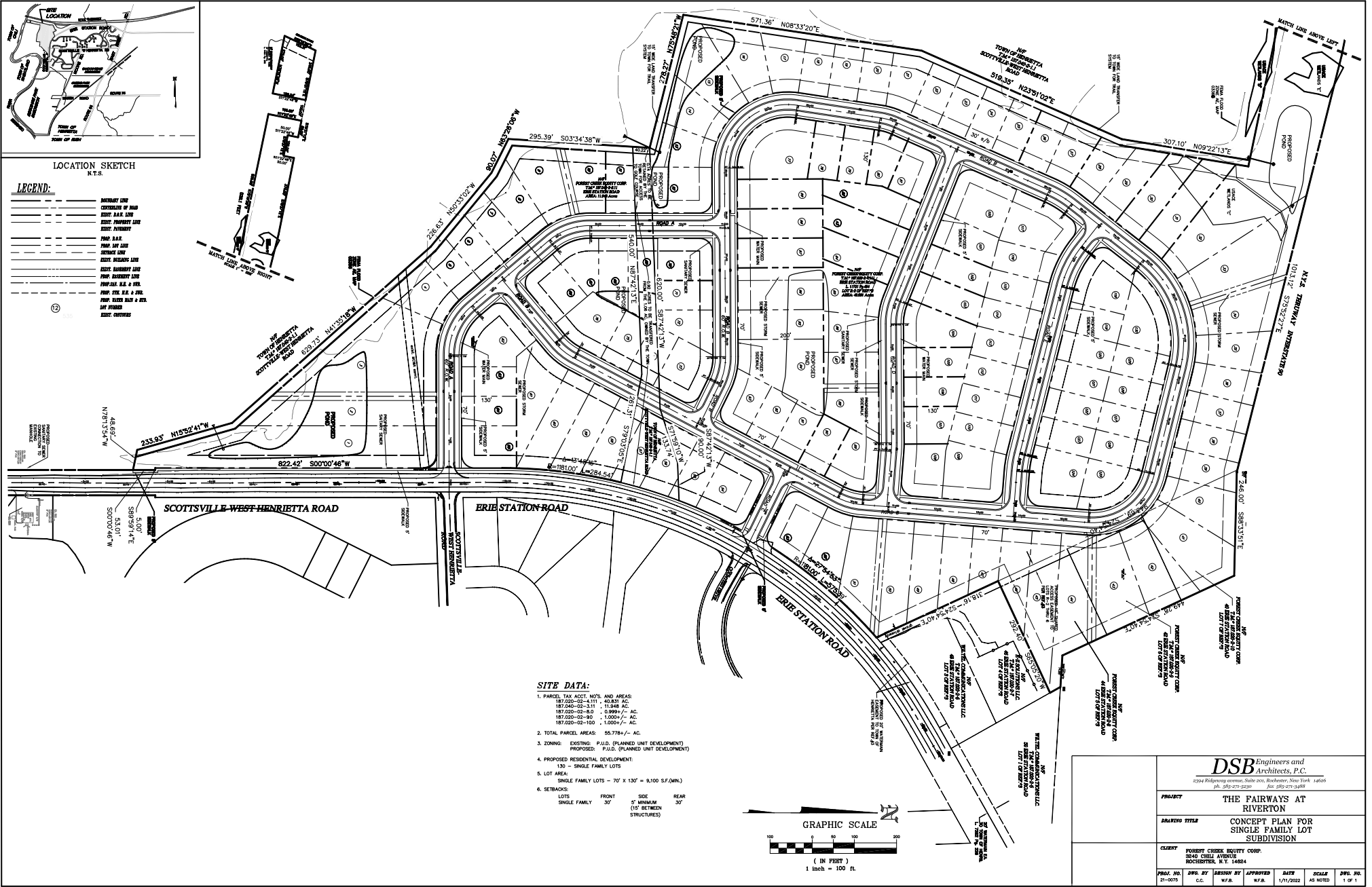
  
Walter F. Baker  
Engineering Manager  
Cc: Forest Creek Equity Corp.



LOCATION SKETCH  
N.T.S.

**LEGEND:**

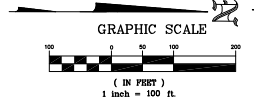
- BOUNDARY LINE
- CONTOUR OF ROAD
- EXIST. D.A.R. LINE
- EXIST. PROPERTY LINE
- EXIST. FUTURE
- PROP. D.A.R.
- PROP. LOT LINE
- SETBACK LINE
- EXIST. RECORD LINE
- EXIST. BOUNDARY LINE
- PROP. BOUNDARY LINE
- PROP. LOT & SET.
- PROP. FUTURE LOT & SET.
- PROP. FUTURE
- EXIST. COVERED



**SITE DATA:**

1. PARCEL TAX ASSESS. NOS. AND AREAS:  
 187.020-02-4111 - 40.831 AC.  
 187.040-02-3111 - 11.848 AC.  
 187.020-02-8.0 - 0.999 +/- AC.  
 187.020-02-8.0 - 1.000 +/- AC.  
 187.020-02-100 - 1.000 +/- AC.
2. TOTAL PARCEL AREAS: 55.778 +/- AC.
3. ZONING: EXISTING: P.U.D. (PLANNED UNIT DEVELOPMENT)  
 PROPOSED: P.U.D. (PLANNED UNIT DEVELOPMENT)
4. PROPOSED RESIDENTIAL DEVELOPMENT:  
 130 - SINGLE FAMILY LOTS
5. LOT AREA:  
 SINGLE FAMILY LOTS - 70' X 130' = 9,100 SF.(MIN.)
6. SETBACKS:  

LOTS	FRONT	SIDE	REAR
SINGLE FAMILY	30'	5' MINIMUM (15' BETWEEN STRUCTURES)	30'



<b>DSB Engineers and Architects, P.C.</b> <small>2024 Ridgeway Avenue, Suite 200, Rochester, New York 14609          PH: 585-271-2120 FAX: 585-271-1489</small>					
PROJECT: THE FAIRWAYS AT RIVERTON					
DRAWING TITLE: CONCEPT PLAN FOR SINGLE FAMILY LOT SUBDIVISION					
CLIENT: FOREST CREEK EQUITY CORP. <small>2540 CHIEF AVENUE          ROCHESTER, N.Y. 14624</small>					
PRJ. NO. 21-0070	DES. BY C.C.	DESIGN BY W.F.R.	APPROVED BY W.F.R.	DATE 1/11/2023	SCALE AS NOTED
					DWG. NO. 1 OF 1



**Full Environmental Assessment Form**  
**Part 1 - Project and Setting**

**Instructions for Completing Part 1**

**Part 1 is to be completed by the applicant or project sponsor.** Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the applicant or project sponsor to verify that the information contained in Part 1 is accurate and complete.

**A. Project and Applicant/Sponsor Information.**

Name of Action or Project: The Fairways at Riverton		
Project Location (describe, and attach a general location map): East Side of Erie Station Road Across From Scottsville-West Henrietta Road		
Brief Description of Proposed Action (include purpose or need): We are Requesting a Special Use Permit for the Planned Unit Development (PUD) for 130 Single Family Residential Lots on 55.7 +/- Acres		
Name of Applicant/Sponsor: DSB Engineers, Walter Baker		Telephone: [REDACTED]
		E-Mail: [REDACTED]
Address: 2394 Ridgeway Avenue		
City/PO: Rochester	State: NY	Zip Code: 14626
Project Contact (if not same as sponsor; give name and title/role): Forest Creek Equity Corp., Bernie Iacovangelo		Telephone: [REDACTED]
		E-Mail: [REDACTED]
Address: 3240 Chili Avenue		
City/PO: Rochester	State: NY	Zip Code: 14624
Property Owner (if not same as sponsor): Same		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

**B. Government Approvals**

**B. Government Approvals, Funding, or Sponsorship.** ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Counsel, Town Board, <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No or Village Board of Trustees	Town Board for Special Use Permit	
b. City, Town or Village <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Planning Board or Commission	Town Planning Board	
c. City, Town or <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Village Zoning Board of Appeals		
d. Other local agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
e. County agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Monroe County Health & Water Authority	
f. Regional agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
g. State agencies <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	New York State Department of Transportation	
h. Federal agencies <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
iii. Is the project site within a Coastal Erosion Hazard Area?		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**C. Planning and Zoning**

**C.1. Planning and zoning actions.**

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed?  Yes  No

- **If Yes**, complete sections C, F and G.
- **If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

**C.2. Adopted land use plans.**

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located?  Yes  No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located?  Yes  No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway; Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?)  Yes  No

If Yes, identify the plan(s):  
 NYS Heritage Areas: West Erie Corridor  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan?  Yes  No

If Yes, identify the plan(s):  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



**C.3. Zoning**

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance.  Yes  No  
 If Yes, what is the zoning classification(s) including any applicable overlay district?  
Planned Unit Development

b. Is the use permitted or allowed by a special or conditional use permit?  Yes  No

c. Is a zoning change requested as part of the proposed action?  Yes  No  
 If Yes,  
 i. What is the proposed new zoning for the site? \_\_\_\_\_

**C.4. Existing community services.**

a. In what school district is the project site located? Rush Henrietta School District

b. What police or other public protection forces serve the project site?  
Monroe County Sheriff

c. Which fire protection and emergency medical services serve the project site?  
Town of Henrietta

d. What parks serve the project site?  
Town of Henrietta

**D. Project Details**

**D.1. Proposed and Potential Development**

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?  
Residential

b. a. Total acreage of the site of the proposed action? 55.7 +/- acres  
 b. Total acreage to be physically disturbed? 52.4 +/- acres  
 c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 55.7 +/- acres

c. Is the proposed action an expansion of an existing project or use?  Yes  No  
 i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % \_\_\_\_\_ Units: \_\_\_\_\_

d. Is the proposed action a subdivision, or does it include a subdivision?  Yes  No  
 If Yes,  
 i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)  
Residential  
 ii. Is a cluster/conservation layout proposed?  Yes  No  
 iii. Number of lots proposed? 130  
 iv. Minimum and maximum proposed lot sizes? Minimum 0.21 acres Maximum 1.21 acres

e. Will the proposed action be constructed in multiple phases?  Yes  No  
 i. If No, anticipated period of construction: \_\_\_\_\_ months  
 ii. If Yes:  
 • Total number of phases anticipated 6  
 • Anticipated commencement date of phase 1 (including demolition) 3 month 2022 year  
 • Anticipated completion date of final phase 3 month 2028 year  
 • Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:  
Phase 1 will start at the southern end due to the sanitary sewer and water connections then proceed northeast and west

f. Does the project include new residential uses?  Yes  No  
 If Yes, show numbers of units proposed.

	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	28	_____	_____	_____
At completion of all phases	130	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)?  Yes  No  
 If Yes,

i. Total number of structures \_\_\_\_\_

ii. Dimensions (in feet) of largest proposed structure: \_\_\_\_\_ height; \_\_\_\_\_ width; and \_\_\_\_\_ length

iii. Approximate extent of building space to be heated or cooled: \_\_\_\_\_ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage?  Yes  No  
 If Yes,

i. Purpose of the impoundment: storm water quality control

ii. If a water impoundment, the principal source of the water:  Ground water  Surface water streams  Other specify: storm water runoff from rain events

iii. If other than water, identify the type of impounded/contained liquids and their source. \_\_\_\_\_

iv. Approximate size of the proposed impoundment. Volume: \_\_\_\_\_ million gallons; surface area: \_\_\_\_\_ acres

v. Dimensions of the proposed dam or impounding structure: \_\_\_\_\_ height; \_\_\_\_\_ length

vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete): \_\_\_\_\_

**D.2. Project Operations**

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both?  Yes  No  
 (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)  
 If Yes:

i. What is the purpose of the excavation or dredging? \_\_\_\_\_

ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?

- Volume (specify tons or cubic yards): \_\_\_\_\_
- Over what duration of time? \_\_\_\_\_

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them. \_\_\_\_\_

iv. Will there be onsite dewatering or processing of excavated materials?  Yes  No  
 If yes, describe. \_\_\_\_\_

v. What is the total area to be dredged or excavated? \_\_\_\_\_ acres

vi. What is the maximum area to be worked at any one time? \_\_\_\_\_ acres

vii. What would be the maximum depth of excavation or dredging? \_\_\_\_\_ feet

viii. Will the excavation require blasting?  Yes  No

ix. Summarize site reclamation goals and plan: \_\_\_\_\_

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area?  Yes  No  
 If Yes:

i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): \_\_\_\_\_

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

iii. Will the proposed action cause or result in disturbance to bottom sediments?  Yes  No  
If Yes, describe: \_\_\_\_\_

iv. Will the proposed action cause or result in the destruction or removal of aquatic vegetation?  Yes  No  
If Yes:

- acres of aquatic vegetation proposed to be removed: \_\_\_\_\_
- expected acreage of aquatic vegetation remaining after project completion: \_\_\_\_\_
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): \_\_\_\_\_
- proposed method of plant removal: \_\_\_\_\_
- if chemical/herbicide treatment will be used, specify product(s): \_\_\_\_\_

v. Describe any proposed reclamation/mitigation following disturbance: \_\_\_\_\_

c. Will the proposed action use, or create a new demand for water?  Yes  No  
If Yes:

i. Total anticipated water usage/demand per day: \_\_\_\_\_ 55,750 gallons/day

ii. Will the proposed action obtain water from an existing public water supply?  Yes  No  
If Yes:

- Name of district or service area: Monroe County Water Authority (MCWA)
- Does the existing public water supply have capacity to serve the proposal?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No
- Do existing lines serve the project site?  Yes  No

iii. Will line extension within an existing district be necessary to supply the project?  Yes  No  
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
water mains within Town right of ways per MCWA standards and approval
- Source(s) of supply for the district: \_\_\_\_\_

iv. Is a new water supply district or service area proposed to be formed to serve the project site?  Yes  No  
If Yes:

- Applicant/sponsor for new district: \_\_\_\_\_
- Date application submitted or anticipated: \_\_\_\_\_
- Proposed source(s) of supply for new district: \_\_\_\_\_

v. If a public water supply will not be used, describe plans to provide water supply for the project: \_\_\_\_\_

vi. If water supply will be from wells (public or private), what is the maximum pumping capacity: \_\_\_\_\_ gallons/minute.

d. Will the proposed action generate liquid wastes?  Yes  No  
If Yes:

i. Total anticipated liquid waste generation per day: \_\_\_\_\_ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): \_\_\_\_\_

iii. Will the proposed action use any existing public wastewater treatment facilities?  Yes  No  
If Yes:

- Name of wastewater treatment plant to be used: Van Lare Treatment Plant
- Name of district: Irondequoit Bay South Central Waters District
- Does the existing wastewater treatment plant have capacity to serve the project?  Yes  No
- Is the project site in the existing district?  Yes  No
- Is expansion of the district needed?  Yes  No

- Do existing sewer lines serve the project site?  Yes  No
  - Will a line extension within an existing district be necessary to serve the project?  Yes  No
- If Yes:
- Describe extensions or capacity expansions proposed to serve this project: \_\_\_\_\_  
Sanitary Public Sewers within the Town Right of Ways

- iv. Will a new wastewater (sewage) treatment district be formed to serve the project site?  Yes  No
- If Yes:
- Applicant/sponsor for new district: \_\_\_\_\_
  - Date application submitted or anticipated: \_\_\_\_\_
  - What is the receiving water for the wastewater discharge? \_\_\_\_\_

- v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge or describe subsurface disposal plans):
- \_\_\_\_\_
- \_\_\_\_\_

- vi. Describe any plans or designs to capture, recycle or reuse liquid waste: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

- e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction?  Yes  No

- If Yes:
- i. How much impervious surface will the project create in relation to total size of project parcel?
- \_\_\_\_\_ Square feet or \_\_\_\_\_ 25 acres (impervious surface)
- \_\_\_\_\_ Square feet or \_\_\_\_\_ 55.7 acres (parcel size)
- ii. Describe types of new point sources. Storm Water Sewer Systems Directed to Detention / Retention Ponds

- iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?
- \_\_\_\_\_
- \_\_\_\_\_
- If to surface waters, identify receiving water bodies or wetlands: \_\_\_\_\_

- Will stormwater runoff flow to adjacent properties?  Yes  No
- iv. Does the proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater?  Yes  No

- f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations?  Yes  No

- If Yes, identify:
- i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)
- \_\_\_\_\_
- ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)
- \_\_\_\_\_
- iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)
- \_\_\_\_\_

- g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit?  Yes  No

- If Yes:
- i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year)  Yes  No
- ii. In addition to emissions as calculated in the application, the project will generate:
- \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide (CO<sub>2</sub>)
  - \_\_\_\_\_ Tons/year (short tons) of Nitrous Oxide (N<sub>2</sub>O)
  - \_\_\_\_\_ Tons/year (short tons) of Perfluorocarbons (PFCs)
  - \_\_\_\_\_ Tons/year (short tons) of Sulfur Hexafluoride (SF<sub>6</sub>)
  - \_\_\_\_\_ Tons/year (short tons) of Carbon Dioxide equivalent of Hydrofluorocarbons (HFCs)
  - \_\_\_\_\_ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)?  Yes  No

If Yes:

- i. Estimate methane generation in tons/year (metric): \_\_\_\_\_
- ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): \_\_\_\_\_

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations?  Yes  No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): \_\_\_\_\_

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services?  Yes  No

If Yes:

- i. When is the peak traffic expected (Check all that apply):  Morning  Evening  Weekend  
 Randomly between hours of \_\_\_\_\_ to \_\_\_\_\_.
- ii. For commercial activities only, projected number of truck trips/day and type (e.g., semi trailers and dump trucks): \_\_\_\_\_
- iii. Parking spaces: Existing \_\_\_\_\_ Proposed \_\_\_\_\_ Net increase/decrease \_\_\_\_\_
- iv. Does the proposed action include any shared use parking?  Yes  No
- v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: \_\_\_\_\_
- vi. Are public/private transportation service(s) or facilities available within 1/2 mile of the proposed site?  Yes  No
- vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?  Yes  No
- viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes?  Yes  No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy?  Yes  No

If Yes:

- i. Estimate annual electricity demand during operation of the proposed action: \_\_\_\_\_
- ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): \_\_\_\_\_
- iii. Will the proposed action require a new, or an upgrade, to an existing substation?  Yes  No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: \_\_\_\_\_ 7:30 am to 5:00 pm
- Saturday: \_\_\_\_\_ 7:30 am to 5:00 pm
- Sunday: \_\_\_\_\_
- Holidays: \_\_\_\_\_

ii. During Operations:

- Monday - Friday: \_\_\_\_\_
- Saturday: \_\_\_\_\_
- Sunday: \_\_\_\_\_
- Holidays: \_\_\_\_\_

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both?  Yes  No

If yes:

i. Provide details including sources, time of day and duration:  
Road Construction Equipment During Construction from 7:30 am to 5:00 om

ii. Will the proposed action remove existing natural barriers that could act as a noise barrier or screen?  Yes  No  
 Describe: \_\_\_\_\_

---

n. Will the proposed action have outdoor lighting?  Yes  No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:  
District Street Lights at 15' Height, Down Lighting and 40' +/- from Homes

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen?  Yes  No  
 Describe: \_\_\_\_\_

---

o. Does the proposed action have the potential to produce odors for more than one hour per day?  Yes  No  
 If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: \_\_\_\_\_

---

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage?  Yes  No

If Yes:

i. Product(s) to be stored \_\_\_\_\_

ii. Volume(s) \_\_\_\_\_ per unit time \_\_\_\_\_ (e.g., month, year)

iii. Generally, describe the proposed storage facilities: \_\_\_\_\_

---

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation?  Yes  No

If Yes:

i. Describe proposed treatment(s):  
 \_\_\_\_\_  
 \_\_\_\_\_

ii. Will the proposed action use Integrated Pest Management Practices?  Yes  No

---

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)?  Yes  No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)
- Operation : \_\_\_\_\_ tons per \_\_\_\_\_ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: \_\_\_\_\_
- Operation: \_\_\_\_\_

s. Does the proposed action include construction or modification of a solid waste management facility?  Yes  No  
 If Yes:  
 i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): \_\_\_\_\_  
 ii. Anticipated rate of disposal/processing:  
 • \_\_\_\_\_ Tons/month, if transfer or other non-combustion/thermal treatment, or  
 • \_\_\_\_\_ Tons/hour, if combustion or thermal treatment  
 iii. If landfill, anticipated site life: \_\_\_\_\_ years

t. Will the proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste?  Yes  No  
 If Yes:  
 i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: \_\_\_\_\_  
 \_\_\_\_\_  
 ii. Generally describe processes or activities involving hazardous wastes or constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 iii. Specify amount to be handled or generated \_\_\_\_\_ tons/month  
 iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: \_\_\_\_\_  
 \_\_\_\_\_  
 v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility?  Yes  No  
 If Yes: provide name and location of facility: \_\_\_\_\_  
 \_\_\_\_\_  
 If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:  
 \_\_\_\_\_  
 \_\_\_\_\_

### E. Site and Setting of Proposed Action

**E.1. Land uses on and surrounding the project site**

a. Existing land uses.  
 i. Check all uses that occur on, adjoining and near the project site.  
 Urban  Industrial  Commercial  Residential (suburban)  Rural (non-farm)  
 Forest  Agriculture  Aquatic  Other (specify): Golf Course  
 ii. If mix of uses, generally describe:  
 \_\_\_\_\_  
 \_\_\_\_\_

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces	0	25	25
• Forested	0	0	0
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)	55.7	8	47.7
• Agricultural (includes active orchards, field, greenhouse etc.)	0	0	0
• Surface water features (lakes, ponds, streams, rivers, etc.)	0	2	2
• Wetlands (freshwater or tidal)	0.5	0.5	0
• Non-vegetated (bare rock, earth or fill)	0	0	0
• Other Describe: <u>Lawns and Landscaping</u>	0	20.7	20.7

c. Is the project site presently used by members of the community for public recreation?  Yes  No  
i. If Yes: explain: \_\_\_\_\_

---

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site?  Yes  No  
If Yes,  
i. Identify Facilities: \_\_\_\_\_  
\_\_\_\_\_

---

e. Does the project site contain an existing dam?  Yes  No  
If Yes:  
i. Dimensions of the dam and impoundment:  
• Dam height: \_\_\_\_\_ feet  
• Dam length: \_\_\_\_\_ feet  
• Surface area: \_\_\_\_\_ acres  
• Volume impounded: \_\_\_\_\_ gallons OR acre-feet  
ii. Dam's existing hazard classification: \_\_\_\_\_  
iii. Provide date and summarize results of last inspection: \_\_\_\_\_  
\_\_\_\_\_

---

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility?  Yes  No  
If Yes:  
i. Has the facility been formally closed?  Yes  No  
• If yes, cite sources/documentation: \_\_\_\_\_  
ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: \_\_\_\_\_  
\_\_\_\_\_

---

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste?  Yes  No  
If Yes:  
i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: \_\_\_\_\_  
\_\_\_\_\_

---

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site?  Yes  No  
If Yes:  
i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply:  Yes  No  
 Yes – Spills Incidents database Provide DEC ID number(s): \_\_\_\_\_  
 Yes – Environmental Site Remediation database Provide DEC ID number(s): \_\_\_\_\_  
 Neither database  
ii. If site has been subject of RCRA corrective activities, describe control measures: \_\_\_\_\_  
\_\_\_\_\_

---

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database?  Yes  No  
If yes, provide DEC ID number(s): \_\_\_\_\_

---

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): \_\_\_\_\_  
\_\_\_\_\_



v. Is the project site subject to an institutional control limiting property uses?  Yes  No

- If yes, DEC site ID number: \_\_\_\_\_
- Describe the type of institutional control (e.g., deed restriction or easement): \_\_\_\_\_
- Describe any use limitations: \_\_\_\_\_
- Describe any engineering controls: \_\_\_\_\_
- Will the project affect the institutional or engineering controls in place?  Yes  No
- Explain: \_\_\_\_\_

**E.2. Natural Resources On or Near Project Site**

a. What is the average depth to bedrock on the project site? \_\_\_\_\_ >8 feet

b. Are there bedrock outcroppings on the project site?  Yes  No  
 If Yes, what proportion of the site is comprised of bedrock outcroppings? \_\_\_\_\_ %

c. Predominant soil type(s) present on project site: Top Soil and Silty Clay \_\_\_\_\_ 100 %  
 \_\_\_\_\_ %  
 \_\_\_\_\_ %

d. What is the average depth to the water table on the project site? Average: \_\_\_\_\_ >6 feet

e. Drainage status of project site soils:  Well Drained: \_\_\_\_\_ 100 % of site  
 Moderately Well Drained: \_\_\_\_\_ % of site  
 Poorly Drained \_\_\_\_\_ % of site

f. Approximate proportion of proposed action site with slopes:  0-10%: \_\_\_\_\_ 78 % of site  
 10-15%: \_\_\_\_\_ 22 % of site  
 15% or greater: \_\_\_\_\_ % of site

g. Are there any unique geologic features on the project site?  Yes  No  
 If Yes, describe: \_\_\_\_\_

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)?  Yes  No

ii. Do any wetlands or other waterbodies adjoin the project site?  Yes  No  
 If Yes to either i or ii, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency?  Yes  No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Lakes or Ponds: Name \_\_\_\_\_ Classification \_\_\_\_\_
- Wetlands: Name Federal Waters, USACE Approximate Size 0.5 acres (see attached)
- Wetland No. (if regulated by DEC) \_\_\_\_\_

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies?  Yes  No  
 If yes, name of impaired water body/bodies and basis for listing as impaired: \_\_\_\_\_

i. Is the project site in a designated Floodway?  Yes  No

j. Is the project site in the 100-year Floodplain?  Yes  No

k. Is the project site in the 500-year Floodplain?  Yes  No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer?  Yes  No  
 If Yes:  
 i. Name of aquifer: \_\_\_\_\_

m. Identify the predominant wildlife species that occupy or use the project site:

Squirrels \_\_\_\_\_ Deer \_\_\_\_\_ Birds \_\_\_\_\_

---

n. Does the project site contain a designated significant natural community?  Yes  No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): \_\_\_\_\_

ii. Source(s) of description or evaluation: \_\_\_\_\_

iii. Extent of community/habitat:

- Currently: \_\_\_\_\_ acres
- Following completion of project as proposed: \_\_\_\_\_ acres
- Gain or loss (indicate + or -): \_\_\_\_\_ acres

---

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species?  Yes  No

If Yes:

i. Species and listing (endangered or threatened): \_\_\_\_\_

Bald Eagle in the vicinity of the Genesee River and the NYS Thruway

---

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern?  Yes  No

If Yes:

i. Species and listing: \_\_\_\_\_

---

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing?  Yes  No

If yes, give a brief description of how the proposed action may affect that use: \_\_\_\_\_

---

**E.3. Designated Public Resources On or Near Project Site**

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304?  Yes  No

If Yes, provide county plus district name/number: \_\_\_\_\_

b. Are agricultural lands consisting of highly productive soils present?  Yes  No

i. If Yes: acreage(s) on project site? \_\_\_\_\_

ii. Source(s) of soil rating(s): \_\_\_\_\_

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark?  Yes  No

If Yes:

i. Nature of the natural landmark:  Biological Community  Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: \_\_\_\_\_

---

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area?  Yes  No

If Yes:

i. CEA name: \_\_\_\_\_

ii. Basis for designation: \_\_\_\_\_

iii. Designating agency and date: \_\_\_\_\_

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places?  Yes  No

If Yes:

i. Nature of historic/archaeological resource:  Archaeological Site  Historic Building or District

ii. Name: \_\_\_\_\_

iii. Brief description of attributes on which listing is based: \_\_\_\_\_

---

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?  Yes  No

---

g. Have additional archaeological or historic site(s) or resources been identified on the project site?  Yes  No

If Yes:

i. Describe possible resource(s): \_\_\_\_\_

ii. Basis for identification: \_\_\_\_\_

---

h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource?  Yes  No

If Yes:

i. Identify resource: \_\_\_\_\_

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): \_\_\_\_\_

iii. Distance between project and resource: \_\_\_\_\_ miles.

---

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666?  Yes  No

If Yes:

i. Identify the name of the river and its designation: \_\_\_\_\_

ii. Is the activity consistent with development restrictions contained in 6 NYCRR Part 666?  Yes  No

**F. Additional Information**

Attach any additional information which may be needed to clarify your project.

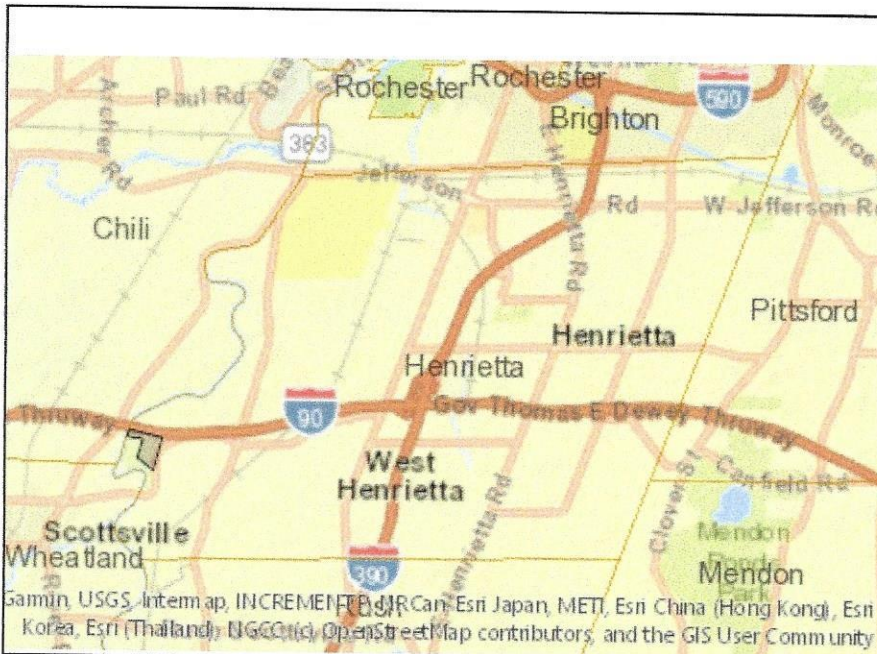
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

**G. Verification**

I certify that the information provided is true to the best of my knowledge.

Applicant/Sponsor Name Walter Baker Date January 11, 2022

Signature  Title Project Engineer



**Disclaimer:** The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Yes - Digital mapping data are not available for all Special Planning Districts. Refer to EAF Workbook.
C.2.b. [Special Planning District - Name]	NYS Heritage Areas: West Erie Canal Corridor
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters <i>(see attached Dept. of the Army July 1, 2011 Determination)</i>
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	Yes
E.2.j. [100 Year Floodplain]	Yes
E.2.k. [500 Year Floodplain]	Yes
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No

E.2.o. [Endangered or Threatened Species]	Yes
E.2.o. [Endangered or Threatened Species - Name]	Bald Eagle
E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National or State Register of Historic Places or State Eligible Sites]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



**DEPARTMENT OF THE ARMY**  
BUFFALO DISTRICT, CORPS OF ENGINEERS  
1776 NIAGARA STREET  
BUFFALO, NEW YORK 14207-3199

REPLY TO

July 1, 2011

Regulatory Branch

SUBJECT: Department of the Army Application No. **2010-01616**

Jim LeChase  
Conifer Realty, LLC  
183 East Main St.  
Suite 600  
Rochester, NY 14610

Dear Mr. LeChase:

I am writing to you in regard to your request for a jurisdictional determination located at Riverton Parcel "A" adjacent to the Riverton Golf Club on Erie Station Road, in the Town of Henrietta, Monroe County, New York.

Section 404 of the Clean Water Act establishes Corps of Engineers jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands, as defined in 33 CFR Part 328.3.

I am hereby verifying the Federal wetland boundary as shown on the attached wetland delineation map dated September 17, 2010. This verification was confirmed on November 15, 2010 and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, 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. 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 Resource Conservation Service prior to starting work.

Based upon my review of the submitted delineation and on-site observations, I have determined that **Wetland C, Wetland D and Wetland E and the Unnamed Tributary to the Genesee River** on the subject parcel are part of a surface water tributary system to a navigable water of the United States as noted on the attached Jurisdictional Determination form. Therefore, these waters are regulated under Section 404 of the Clean Water Act. Department of the Army authorization is required if you propose a discharge of dredged or fill material in

Regulatory Branch

SUBJECT: Department of the Army Application No. 2010-01616

this/these area(s).

In addition, I have determined that there is no clear surface water connection or ecological continuum between **Wetland A, Wetland B, Wetland F and Wetland G** on the parcel and a surface tributary system to a navigable water of the United States. Therefore, these waters are considered isolated, non-navigable, intrastate waters and not regulated under Section 404 of the Clean Water Act. Accordingly, you do not need Department of the Army authorization to commence work in these areas.

I encourage you to contact the appropriate state and local governmental officials to ensure that the proposed work complies with their requirements.

Finally, this letter contains an approved jurisdictional determination for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

Ms. Pauline Thorndike  
Review Officer  
Great Lakes and Ohio River Division  
CELRD-PDS-O  
550 Main Street, Room 10032  
Cincinnati, OH 45202-3222  
Phone: 513-684-6212

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 C.F.R. 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 September 1, 2010.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

Regulatory Branch

SUBJECT: Department of the Army Application No. 2010-01616

Questions pertaining to this matter should be directed to me by calling (716) 879-4304, by writing to the following address: U.S. Army Corps of Engineers, 1776 Niagara Street, Buffalo, New York 14207, or by e-mail at: [molly.a.connerton@usace.army.mil](mailto:molly.a.connerton@usace.army.mil)

Sincerely,

A handwritten signature in cursive script that reads "Molly Connerton".

Molly Connerton  
Biologist

Enclosures



**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND  
REQUEST FOR APPEAL**

Applicant: Conifer Riverton Associates		File Number: 2010-01616	Date: July 1, 2010
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
x	APPROVED JURISDICTIONAL DETERMINATION	D	
	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\\_materials.aspx](http://www.usace.army.mil/CECW/Pages/reg_materials.aspx) or Corps regulations at 33 CFR Part 331.

**A: INITIAL PROFFERED PERMIT:** You may accept or object to the permit.

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

**B: PROFFERED PERMIT:** You may accept or appeal the permit

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

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

**D: APPROVED JURISDICTIONAL DETERMINATION:** You may accept or appeal the approved JD or provide new information.

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

**E: PRELIMINARY JURISDICTIONAL DETERMINATION:** You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

**SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT**

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

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

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

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

Molly Connerton  
U.S. Army Corps of Engineers  
1776 Niagara Street  
Buffalo, New York 14207  
(716) 879-4304  
molly.a.connerton@usace.army.mil

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

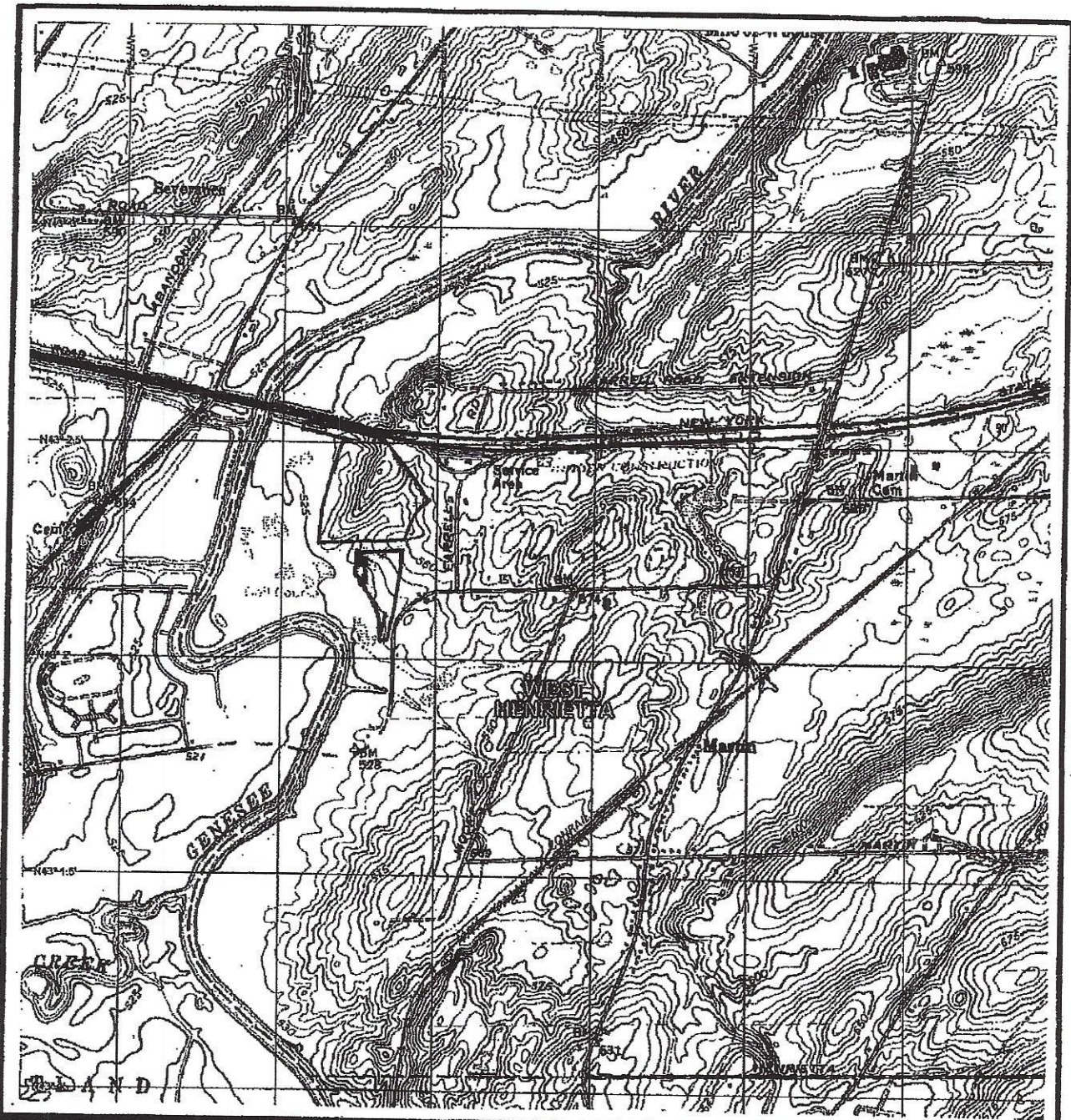
Ms. Pauline Thorndike, Review Officer  
U.S. Army Corps of Engineers  
Great Lakes and Ohio River Division  
550 Main Street, Room 10032  
Cincinnati, OH 45202-3222  
(513) 684-6212; FAX(513) 684-2460  
pauline.d.thorndike@usace.army.mil


**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: \_\_\_\_\_



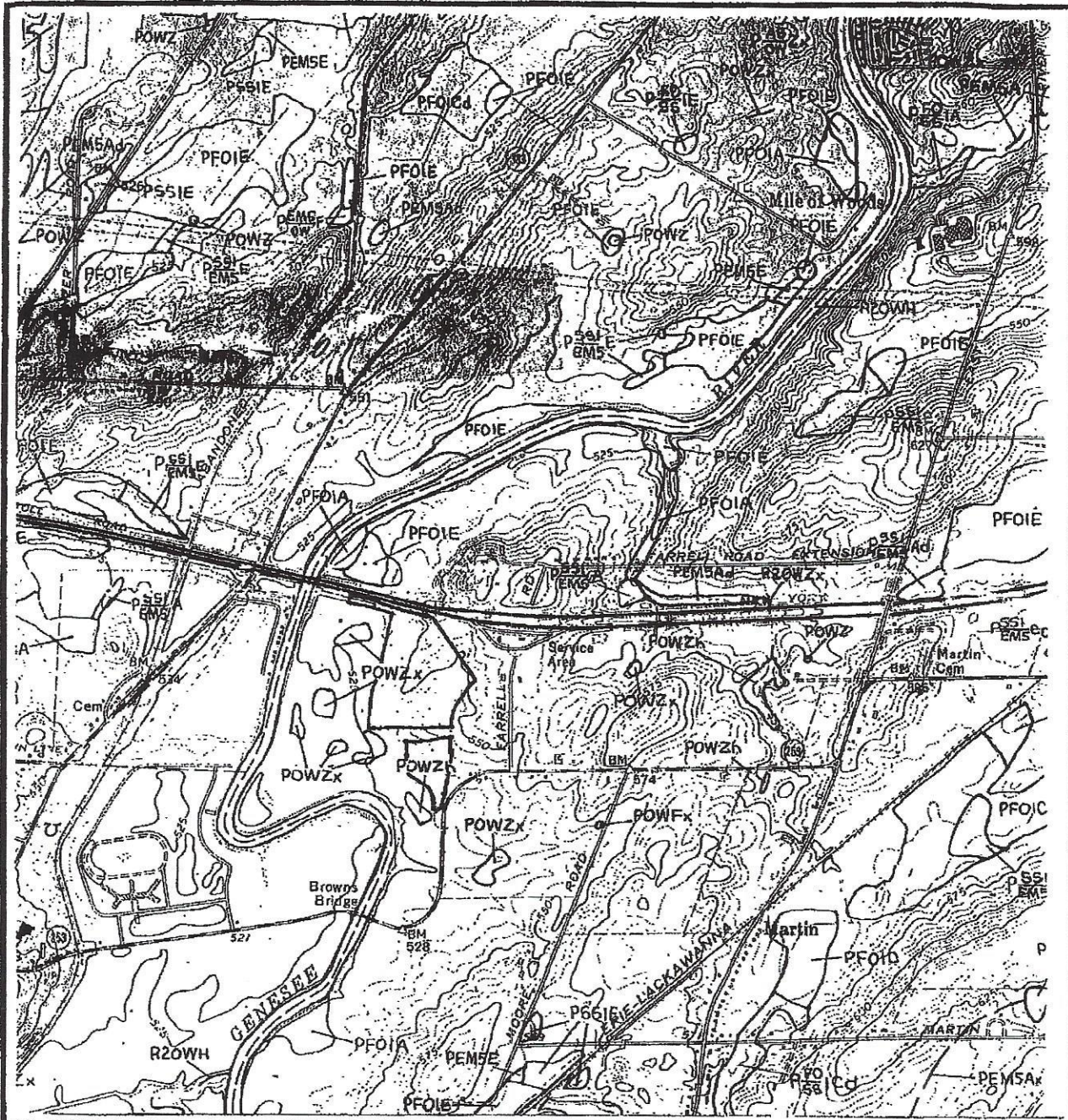
Legend:  Site Boundary  
 Base Map: USGS Quadrangle Map - West Henrietta, New York  
 Prepared By: Environmental Resources, LLC


**FIGURE 1. SITE LOCATION**



Riverton Parcel A  
 D/A Processing No. 2010-01616  
 Monroe County, New York  
 Quad: West Henrietta  
 Sheet 1 of 5





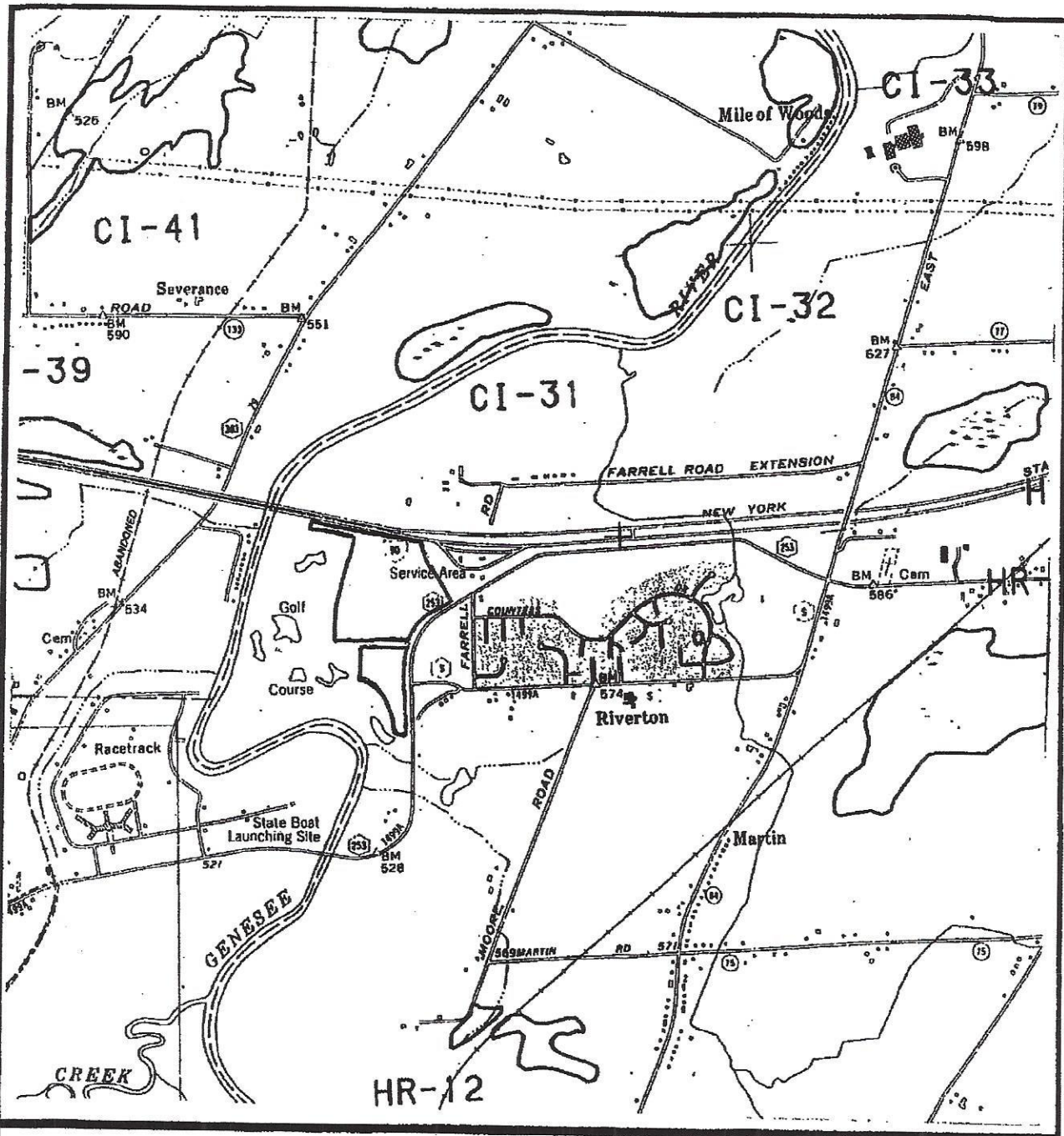
Legend:  Site Boundary  
Base Map: National Wetlands Inventory Map - West Henrietta, New Yr  
Prepared By: Environmental Resources, LLC


**FIGURE 2. FEDERAL WETLANDS**



Riverton Parcel A  
D/A Processing No. 2010-01616  
Monroe County, New York  
Quad: West Henrietta  
Sheet 2 of 5





Legend:  Site Boundary  
 Base Map: NYS Freshwater Wetlands Map - West Henrietta, New York  
 Prepared By: Environmental Resources, LLC


**FIGURE 3. STATE WETLANDS**



Riverton Parcel A  
 D/A Processing No. 2010-01616  
 Monroe County, New York  
 Quad: West Henrietta  
 Sheet 3 of 5





Legend:  Site Boundary  
 Base Map: Monroe County Soil Survey (USDA, 1973)  
 Prepared By: Environmental Resources, LLC

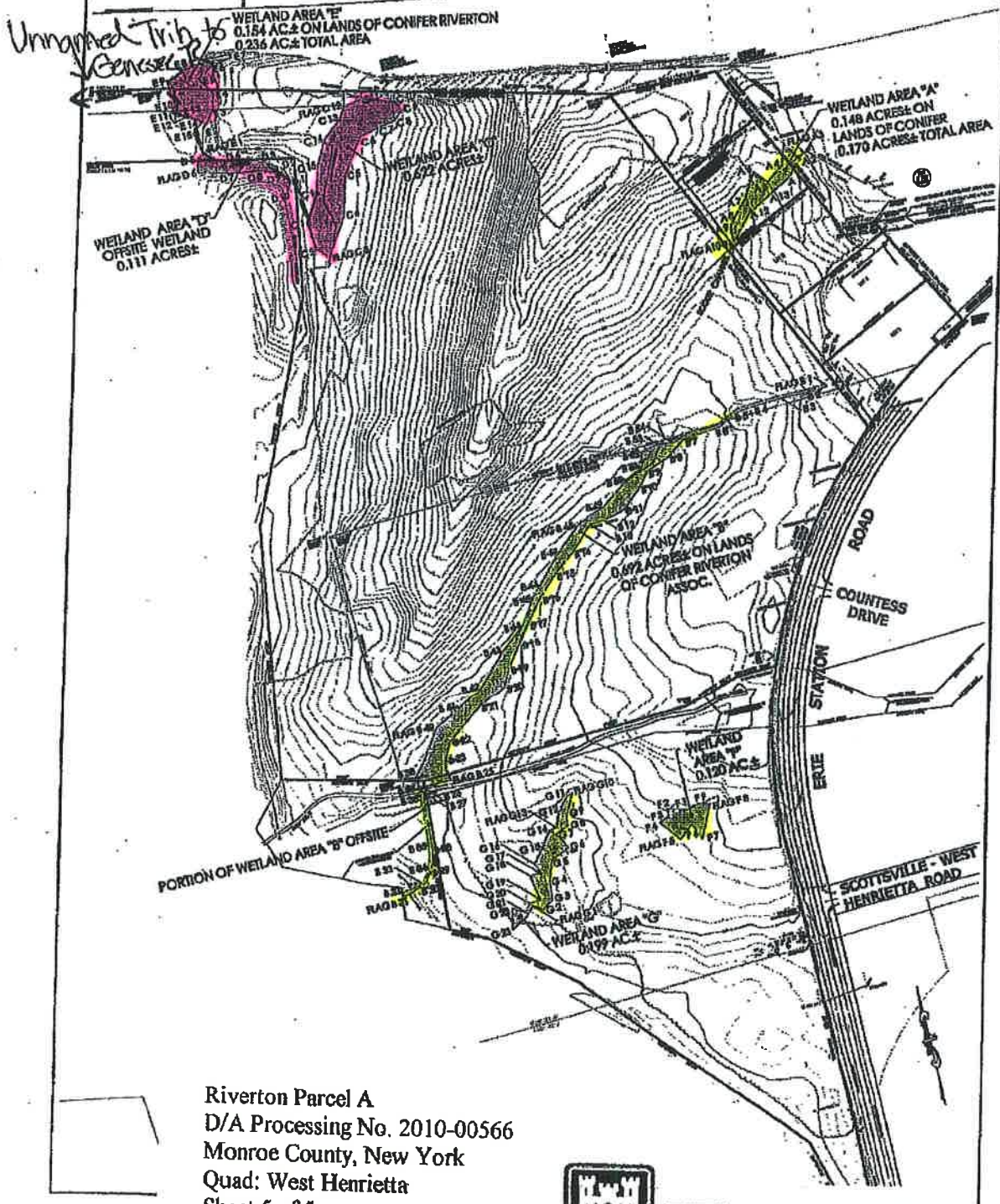
**FIGURE 4. SOILS**



Riverton Parcel A  
 D/A Processing No. 2010-01616  
 Monroe County, New York  
 Quad: West Henrietta  
 Sheet 4 of 5



<p>THIS DRAWING IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF THE ENGINEER.</p>							
<p><b>Revisions</b></p> <table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Description</th> </tr> </thead> <tbody> <tr> <td>1</td> <td>12.23.17</td> <td>Added name of Wetland ID</td> </tr> </tbody> </table>	No.	Date	Description	1	12.23.17	Added name of Wetland ID	<p><b>Passero Associates</b>          225 Albany Ave.          Rochester, NY 14620          Phone: (585) 225-1234          Fax: (585) 225-1234          Website: www.passero.com          Project Manager: John F. Passero, P.E.          Designer: Ed Passero, P.E.          Drafted by: D. Zaccaro</p>
No.	Date	Description					
1	12.23.17	Added name of Wetland ID					
<p><b>Client</b>          Conifer Realty, LLC          188 East Main St.          Rochester, N.Y. 14610</p>							
<p><b>Wetland Location</b>          Lands N/F          Conifer Riverton          Assoc.          NW Side of Erie Station Rd.          Tract Acct. No.          187,002-02-04,111          Henrietta, Monroe Co., NY</p>							
<p>Project No.          20070531.0002</p>	<p>Sheet No.  <b>WS-1</b>          1 of 1</p>						
<p>Scale:  <b>1" = 200'</b></p>							
<p>Date:          09.17.10</p>							



Riverton Parcel A  
 D/A Processing No. 2010-00566  
 Monroe County, New York  
 Quad: West Henrietta  
 Sheet 5 of 5



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

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): July 1, 2011**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER: Buffalo District, Riverton Parcel "A", 2010-01616**

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:**

State: New York County/parish/borough: Monroe City: Henrietta  
Center coordinates of site (lat/long in degree decimal format): Lat. 43.04° N, Long. 77.71° W.  
Universal Transverse Mercator:

Name of nearest waterbody: Unnamed Tributary to the Genesee River

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

Name of watershed or Hydrologic Unit Code (HUC): Southwestern Lake Ontario

Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.

Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

Office (Desk) Determination. Date: March 22, 2011

Field Determination. Date(s): November 15, 2010

**SECTION II: SUMMARY OF FINDINGS**

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

There ~~are~~ **no** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

Waters subject to the ebb and flow of the tide.

Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce.  
Explain:

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

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

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

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

TNWs, including territorial seas

Wetlands adjacent to TNWs

Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs

Non-RPWs that flow directly or indirectly into TNWs

Wetlands directly abutting RPWs that flow directly or indirectly into TNWs

Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs

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

Impoundments of jurisdictional waters

Isolated (interstate or intrastate) waters, including isolated wetlands

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

Non-wetland waters: 1600 linear feet: 2 width (ft) and/or acres.

Wetlands: Wetland C (0.622), Wetland D (0.111), Wetland E (0.39) acres.

**c. Limits (boundaries) of jurisdiction based on: 1987 Delineation Manual**

Elevation of established OHWM (if known):

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

Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.  
Explain: Wetland A (0.170 acres), Wetland B (0.692 acres) Wetland F (0.120 acres) Wetland G (0.199 acres) have no surface flow or other connections to a water of the United States. I also reviewed aerial photography, soils maps and topographical features. Based on the field and office review, these wetlands were determined to be geographically isolated. Therefore, Wetland A, Wetland B, Wetland F and Wetland G are not jurisdictional.

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

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

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



### SECTION III: CWA ANALYSIS

#### A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW

Identify TNW:

Summarize rationale supporting determination:

2. Wetland adjacent to TNW

Summarize rationale supporting conclusion that wetland is "adjacent":

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

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

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

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

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

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

(i) General Area Conditions:

Watershed size: 2 acres

Drainage area: 2 acres

Average annual rainfall: inches

Average annual snowfall: inches

(ii) Physical Characteristics:

(a) Relationship with TNW:

Tributary flows directly into TNW.

Tributary flows through Pick List tributaries before entering TNW.

Project waters are 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<sup>5</sup>: The Unnamed Tributary to the Genesee River flows from Wetland C north for approximately 550 Linear Feet then continues to flow north through Wetland D for approximately 250 linear feet and

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

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

then flows through Wetland E and continues west for approximately 800 linear feet and empties directly into the Genesee River, a navigable waterway.

Tributary stream order, if known:

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

Tributary is:  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

Tributary properties with respect to top of bank (estimate):

Average width: 2 feet  
Average depth: 2 feet  
Average side slopes: 4:1 (or greater).

Primary tributary substrate composition (check all that apply):

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

Tributary condition/stability [e.g., highly eroding, sloughing banks]. Explain: stable.  
Presence of run/riffle/pool complexes. Explain:

Tributary geometry: Meandering

Tributary gradient (approximate average slope): 1 %

(c) **Flow:**

Tributary provides for: Intermittent but not seasonal flow

Estimate average number of flow events in review area/year: 6-10

Describe flow regime: Tributary flows during snow melt, wet periods and following rain events.

Other information on duration and volume:

Surface flow is: Discrete and confined. Characteristics:

Subsurface flow: Pick List. Explain findings:

Dye (or other) test performed:

Tributary has (check all that apply):

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

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

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

(iii) **Chemical Characteristics:**

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

Explain: No oily film or other residue was observed in the channel.

Identify specific pollutants, if known:

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

<sup>7</sup>Ibid.

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

- Riparian corridor. Characteristics (type, average width):  
 Wetland fringe. Characteristics:

Habitat for:

- Federally Listed species. Explain findings:  
 Fish/spawn areas. Explain findings:  
 Other environmentally-sensitive species. Explain findings:  
 Aquatic/wildlife diversity. Explain findings: The channel supports potential breeding habitat for amphibians and

throughout the subject parcel there is potential to support bird and small mammal species.

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

(i) **Physical Characteristics:**

(a) General Wetland Characteristics:

Properties:

Wetland size: Wetland C (0.622), Wetland D (0.111), Wetland E (0.236) acres

Wetland type. Explain: Scrub-Shrub.

Wetland quality. Explain: The wetlands are of good quality.

Project wetlands cross or serve as state boundaries. Explain: The wetlands don't cross or serve as state boundaries.

(b) General Flow Relationship with Non-TNW:

Flow is: Intermittent flow. Explain:

Surface flow is: Discrete and confined  
Characteristics:

Subsurface flow: Pick List. Explain findings:

- Dye (or other) test performed:

(c) Wetland Adjacency Determination with Non-TNW:

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

(d) Proximity (Relationship) to TNW

Project wetlands are 1 (or less) river miles from TNW.

Project waters are 1 (or less) aerial (straight) miles from TNW.

Flow is from: Wetland to navigable waters.

Estimate approximate location of wetland as within the 10-20-year floodplain.

(ii) **Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain: No oily film or residue color.

Identify specific pollutants, if known:

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

Riparian buffer. Characteristics (type, average width):

Vegetation type/percent cover. Explain:

Habitat for:

Federally Listed species. Explain findings:

Fish/spawn areas. Explain findings:

Other environmentally-sensitive species. Explain findings:

Aquatic/wildlife diversity. Explain findings: On July 2, 2013 site visit there was saturation within the wetlands and these areas are potential breeding habitat for amphibians. Throughout the subject parcel there is potential to support bird and small mammal species.

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

All wetland(s) being considered in the cumulative analysis: 3

Approximately ( 0.969 ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>	<u>Directly abuts? (Y/N)</u>	<u>Size (in acres)</u>
Y	Wetland C (0.622)		
Y	Wetland D (0.111)		
Y	Wetland E (0.236)		

Summarize overall biological, chemical and physical functions being performed: Wetland C, D and E are Scrub-Shrub Wetlands and they perform some of the following functions A) habitat diversity B) water quality improvements C) and nutrient cycling.

### C. SIGNIFICANT NEXUS DETERMINATION

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

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:

1. Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D:
2. Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs. Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: Drainage:

The Unnamed non-RPW Tributary drains an area that is adjacent to a golf course and primarily scrub-shrub. The water leaving the subject property is moderately free of contaminants.

Wetlands:

Wetland C occur entirely within the boundaries of the project site. Wetland D is located just offsite and Wetland E is partially on site and partially offsite. Wetland C, D and E are characterized as seasonally saturated scrub-shrub wetlands. The November 15, 2010 site visit showed the wetlands in a relatively saturated condition. Flood attenuation/runoff storage, pollutant trapping/water quality, removal of suspended solids, dissolved solids, toxins and retention/treatment of nitrogen and phosphorus, functions are considered to be moderate for the subject wetlands. Wildlife habitat functions are considered to be moderate.

Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?

Moderate appreciable lifecycle support functions, with respect to the Genesee River, are performed by the tributary and adjacent wetlands for this relevant reach. The tributary is not large enough to support fish passage or spawning. There is habitat in the wetlands to support other aquatic species present in the TNW. The wetlands provide habitat for local communities of insects, birds, some amphibians and small mammals and avian species. The avian species which likely use these wetlands could be closely associated with use of the TNW.

Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?

Yes, serve as primary collectors and processors of organic matter and nutrients for downstream waters. The storage and transformation of organic matter is important to these types of systems because it prevents downstream water quality degradation as a result of excess organic matter. It also transforms unusable organic matter (inorganic carbon) into food for aquatic organisms (organic carbon).

#### CONCLUSION

The Unnamed non-RPW Tributary and its adjacent wetlands were found to influence the chemical, physical, and biological integrity of downstream waters. Based upon the evaluation presented herein, there is a significant nexus between the Unnamed non-RPW Tributary and its adjacent wetlands and the Genesee River. Therefore, the entire reach of the Unnamed non-RPW Tributary and Wetland C, Wetland D and Wetland E are jurisdictional waters of the US.

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

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

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

2. **RPWs that flow directly or indirectly into TNWs.**

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

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

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

3. **Non-RPWs<sup>3</sup> that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

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

- Tributary waters: 1600 linear feet 2 width (ft).  
 Other non-wetland waters: acres.  
Identify type(s) of waters:

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

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.  
 Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:  
 Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

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

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

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

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

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

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

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

Provide estimates for jurisdictional wetlands in the review area: 0.969 acres.

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

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

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

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

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

Identify water body and summarize rationale supporting determination:

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

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

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

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

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet \_\_\_\_\_ width (ft).  
 Lakes/ponds: \_\_\_\_\_ acres.  
 Other non-wetland waters: \_\_\_\_\_ acres. List type of aquatic resource:  
 Wetlands: 1.18 acres.

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the "Significant Nexus" standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams): \_\_\_\_\_ linear feet, \_\_\_\_\_ width (ft).  
 Lakes/ponds: \_\_\_\_\_ acres.

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

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

- Other non-wetland waters:          acres. List type of aquatic resource: .  
 Wetlands:                  acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

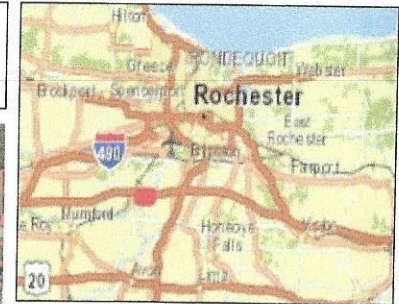
- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Wetland Delineation Report submitted by Environmental Resources, LLC.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report.
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters' study:
- U.S. Geological Survey Hydrologic Atlas: Southwestern Lake Ontario.
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24,000, West Henrietta.
- USDA Natural Resources Conservation Service Soil Survey. Citation: NRCS Websoil Survey-Canandaigua and Lyons soils series on site determined to be hydric.
- National wetlands inventory map(s). Cite name: NWI Online Mapper-No NWI wetlands mapped on site.
- State/Local wetland inventory map(s): Environmental Resource Mapper-No NYSDEC wetlands mapped on site.
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:          (National Geodetic Vertical Datum of 1929)
- Photographs:  Aerial (Name & Date): Review of Google Earth, Bing maps and NYSGIS Clearinghouse maps.  
 or  Other (Name & Date): Photographs within the Wetland Delineation Report.
- Previous determination(s). File no. and date of response letter:
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:** The contents of this JD form represent the summary of field observations from a site visit conducted on November 15, 2010 and an office review of the data sources listed above. Wetland C, D and E were found to perform several functions including flood attenuation and runoff storage, pollutant trapping, wildlife habitat, and water quality protection, especially helping to protect the downstream waters of the Genesee River and Lake Ontario. Based on the verified hydrological connection to the Genesee River (a TNW) and the ecological services being performed, Wetland C, D and E and the Unnamed non-RPW Tributary to the Genesee River have a significant effect on the physical, chemical, and biological integrity of downstream waters, including Irondequoit Bay (a TNW). The regulation of these areas and those similar to it is vital to the goals and purpose of the Clean Water Act (CWA). Therefore, Wetland C, D and E and the Unnamed Tributary to the Genesee River are jurisdictional waters of the U.S.

None of the 328.3(a)(3)(i-iii) factors are relevant for Wetlands A, B, F and G. These wetlands do not support recreational or other use by interstate travelers, nor do they provide habitat for fish or shellfish. These wetlands are considered to be isolated and not subject to Federal jurisdiction.



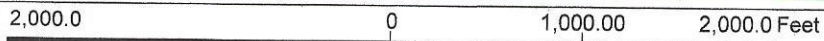
# Monroe County GIS Services Division



### Legend

-  Parcels
-  NWI Wetlands 2015
-  NYSDEC Wetlands 2008

### Notes



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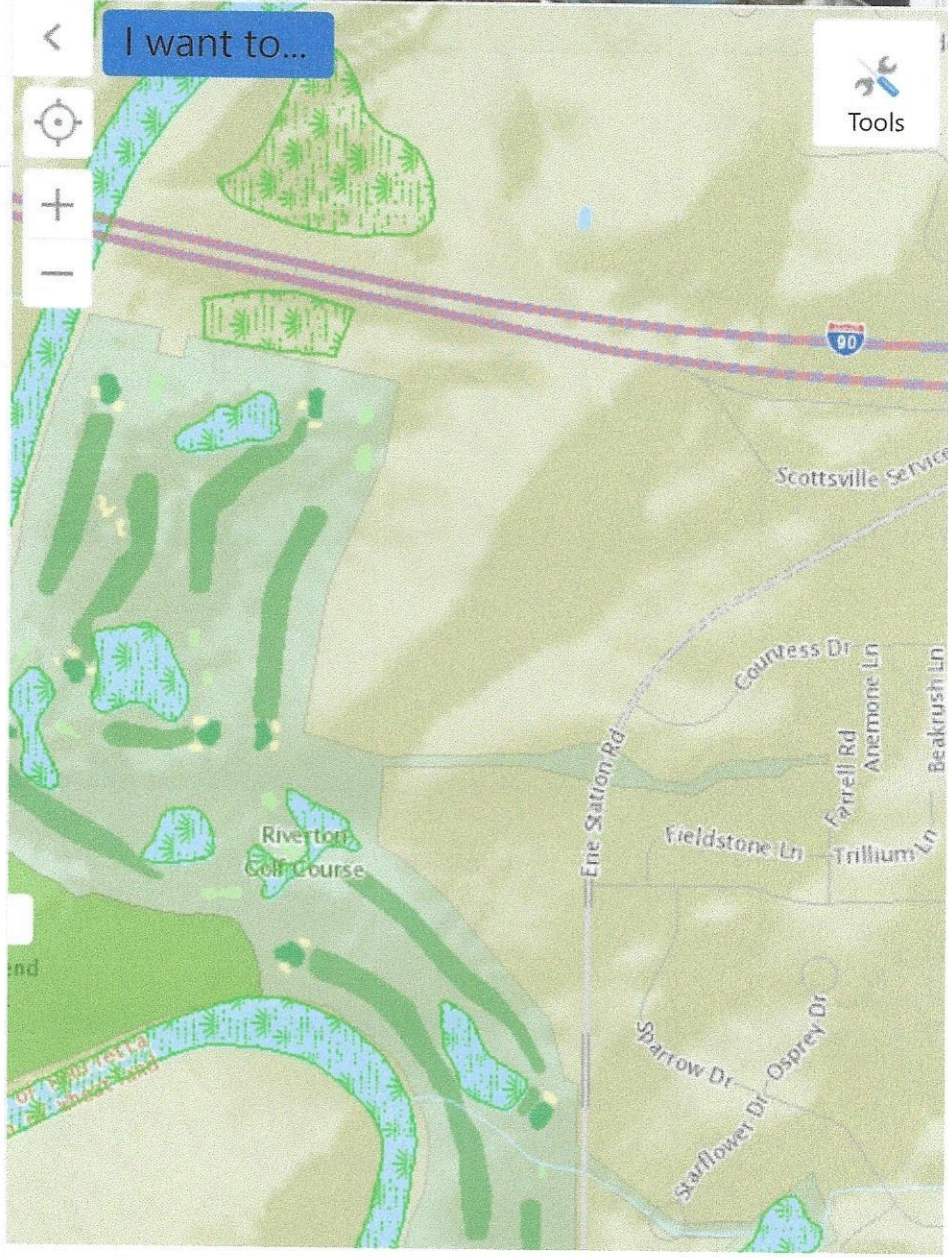
Layers

wetlands

Hydrography Layers

NWI Wetlands  
2015

NYSDEC  
Wetlands 2008



Street Vi...

WKID: 4326 Lat/Long ▲

Lat: 43.04° N  
Lon: 77.73° W

Home Layers

0 0.1 0.2km

1:500