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): DEC 0 3 2013

B. DISTRICT OFFICE, FILE NAME, AND NUMBER: CENAP-OP-R-2013-852-24 (see description in Part IV-B)

C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State: New Jersey County: Camden City: Camden
Center coordinates of site (lat/long in degree decimal format): Lat. 39.965730° N Long. -75.086544° W
Universal Transverse Mercator: Northing Easting
Name of nearest waterbody: Delaware River
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A (no tributary waters on-site)
Name of watershed or Hydrologic Unit Code (HUC): 02040202

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

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

☐ Office (Desk) Determination. Date:
☒ Field Determination. Date(s): August 22, 2013

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.

☐ 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: While the subject property is near the Delaware River, the river is off the property, and all parts of the subject property are above (landward of) both the mean high water line and the high tide line of the tidal river.

B. CWA SECTION 404 DETERMINATION OF JURISDICTION.

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

1. Waters of the U.S.

a. Indicate presence of waters of U.S. in review area (check all that apply): [1]

☐ TNWs, including territorial seas
☒ Wetlands adjacent to TNWs
☐ Relatively permanent waters[2] (RPWs) that flow directly or indirectly into TNWs
☐ Non-RPWs that flow directly or indirectly into TNWs
☐ Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
☐ Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
☐ Impoundments of jurisdictional waters
☐ Isolated (interstate or intrastate) waters, including isolated wetlands

b. Identify (estimate) size of waters of the U.S. in the review area:
Non-wetland waters: linear feet: width (ft) and/or acres.
Wetlands: 1.68 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):[3]

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

[1] Boxes checked below shall be supported by completing the appropriate sections in Section III below.
[2] For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).
[3] Supporting documentation is presented in Section III.F.

SECTION III: CWA ANALYSIS

A. TNWs AND WETLANDS ADJACENT TO TNWs

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

1. TNW
Identify TNW: Delaware River (off-property)
Summarize rationale supporting determination: The Delaware River at this location (off-property) is subject to the ebb and flow of the tide. It contains a Federal navigation channel (Corps project), and is used to transport interstate commerce.

2. Wetland adjacent to TNW
Summarize rationale supporting conclusion that wetland is "adjacent": wetlands are neighboring, i.e. within the 100-year flood plain of the TNW.

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

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

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

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

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

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

(i) General Area Conditions:
Watershed size: _____
Drainage area: _____
Average annual rainfall: inches
Average annual snowfall: inches

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

Project waters are _____ river miles from TNW.
Project waters are _____ river miles from RPW.
Project waters are _____ aerial (straight) miles from TNW.
Project waters are _____ aerial (straight) miles from RPW.
Project waters cross or serve as state boundaries. Explain:

Identify flow route to TNW[5]:
Tributary stream order, if known:

[4] Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.
[5] Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.

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

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

Tributary properties with respect to top of bank (estimate):
Average width: feet
Average depth: feet
Average side slopes: _____

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:
Presence of run/riffle/pool complexes. Explain:
Tributary geometry:_____
Tributary gradient (approximate average slope): %

(c) Flow:
Tributary provides for: _____
Estimate average number of flow events in review area/year: _____
Describe flow regime:
Other information on duration and volume:

Surface flow is: _____ Characteristics:

Subsurface flow: _____ Explain findings:
- ☐ Dye (or other) test performed:

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

If factors other than the OHWM were used to determine lateral extent of CWA jurisdiction (check all that apply):
- ☐ High Tide Line indicated by:
  - ☐ oil or scum line along shore objects
  - ☐ fine shell or debris deposits (foreshore)
  - ☐ physical markings/characteristics
  - ☐ tidal gauges
  - ☐ other (list):
- ☐ Mean High Water Mark indicated by:
  - ☐ survey to available datum;
  - ☐ physical markings;
  - ☐ vegetation lines/changes in vegetation types.

(iii) Chemical Characteristics:
Characterize tributary (e.g., water color is clear, discolored, oily film; water quality; general watershed characteristics, etc.).
Explain:
Identify specific pollutants, if known:

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

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

- ☐ Riparian corridor. Characteristics (type, average width):
- ☐ Wetland fringe. Characteristics:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

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

(i) Physical Characteristics:

(a) General Wetland Characteristics:

Properties:

Wetland size: acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

(b) General Flow Relationship with Non-TNW:

Flow is:_____ Explain:

Surface flow is: _____

Characteristics:

Subsurface flow: _____ 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 _____ river miles from TNW.

Project waters are _____ aerial (straight) miles from TNW.

Flow is from: _____

Estimate approximate location of wetland as within the _____ floodplain.

(ii) Chemical Characteristics:

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

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

- ☐ Riparian buffer. Characteristics (type, average width):
- ☐ Vegetation type/percent cover. Explain:
- ☐ Habitat for:
  - ☐ Federally Listed species. Explain findings:
  - ☐ Fish/spawn areas. Explain findings:
  - ☐ Other environmentally-sensitive species. Explain findings:
  - ☐ Aquatic/wildlife diversity. Explain findings:

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

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

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

For each wetland, specify the following:

Directly abuts? (Y/N)	Size (in acres)	Directly abuts? (Y/N)	Size (in acres)

Summarize overall biological, chemical and physical functions being performed:

C. SIGNIFICANT NEXUS DETERMINATION

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

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:
• Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
• Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
• Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
• Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

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

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

2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

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

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

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:
   - ☐ TNWs: linear feet width (ft), Or, acres.
   - ☒ Wetlands adjacent to TNWs: 1.68 acres.

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

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

☐ Tributary waters: linear feet width (ft).

☐ Other non-wetland waters: acres.

Identify type(s) of waters:

3. **Non-RPWs[8] that flow directly or indirectly into TNWs.**

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

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

☐ Tributary waters: linear feet width (ft).

☐ Other non-wetland waters: acres.

Identify type(s) of waters:

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

☐ Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.

☐ Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

☐ Wetlands directly abutting an RPW where tributaries typically flow "seasonally." Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above Provide rationale indicating that wetland is directly abutting an RPW:

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

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

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

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

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

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

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

7. **Impoundments of jurisdictional waters.[9]**

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

☐ Demonstrate that impoundment was created from "waters of the U.S.," or

☐ Demonstrate that water meets the criteria for one of the categories presented above (1-6), or

☐ Demonstrate that water is isolated with a nexus to commerce (see E below).

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

☐ which are or could be used by interstate or foreign travelers for recreational or other purposes.

☐ from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.

☐ which are or could be used for industrial purposes by industries in interstate commerce.

☐ Interstate isolated waters. Explain:

☐ Other factors. Explain:

Identify water body and summarize rationale supporting determination:

[8] See Footnote # 3.

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

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

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

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

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

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

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

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

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

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

SECTION IV: DATA SOURCES.

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

☒ Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant: Plan prepared by Land Dimensions Engineering; one sheet; dated "MARCH 2013," last revised "10/03/2013;" entitled "WETLANDS PLAN BLOCK 888 LOT 10.01 …"
☒ 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: "Jurisdictional Determination Application," dated July 8, 2013, prepared by ABR Consultants, LLC. The report and delineation were substantially accurate, with the exception of two areas which were corrected in Wetland A as described below.
☐ Data sheets prepared by the Corps:
☒ Corps navigable waters' study: List of Navigable and Non-Navigable Waters in the Philadelphia District
☐ U.S. Geological Survey Hydrologic Atlas:
  ☐ USGS NHD data.
  ☐ USGS 8 and 12 digit HUC maps.
☒ U.S. Geological Survey map(s). Cite scale & quad name: Camden, NJ (1:24000)
☐ USDA Natural Resources Conservation Service Soil Survey. Citation:
☐ National wetlands inventory map(s). Cite name:
☐ State/Local wetland inventory map(s):
☐ FEMA/FIRM maps:
☒ 100-year Floodplain Elevation is: 9' (National Geodetic Vertical Datum of 1929)
☒ Photographs: ☒ Aerial (Name & Date): Google Earth 2011
  ☒ or Other (Name & Date): Ground photos by agent (report) and by Corps (August 22, 2013)
☐ Previous determination(s). File no. and date of response letter:
☐ Applicable/supporting case law:
☐ Applicable/supporting scientific literature:
☒ Other information (please specify): Inspection of property August 22, 2013.

B. ADDITIONAL COMMENTS TO SUPPORT JD:

CENAP-OP-R-2013-852-24, Cramer Hill Community Development Farragut Avenue School CD
5.63-acre property; north side of Farragut Avenue, between 33rd and 36th Streets; Block 888, Lot 10.01; City of Camden, NJ

1. The site is partially wooded (primarily in the uplands) and part emergent wetlands (dominated by Phragmites). The property has a history of past disturbance. The majority of the property was formerly part of the Delaware River, which was filled with dredged material. From aerial photography, this appears to have occurred in the 1930s. The site was inspected by the Corps on August 22, 2013. The applicant's agent had delineated two separate wetland areas on the property (A and B).

2. There is an intervening property between the subject property and the Delaware River. The river is subject to the ebb and flow of the tide at this location. It is presently used for the transport of interstate and foreign commerce, and is found in "List of Navigable and Non-Navigable Waters in the Philadelphia District" as a navigable water. It contains an authorized Federal navigation channel (Corps project). Based on the above, it is both a navigable water of the U.S. pursuant to 33 CFR 329.4, and a water of the U.S. pursuant to 33 CFR 328.3(a)(1). It is considered to be a Traditional Navigable Water (TNW) for the purpose of Section 404 jurisdiction. The limit of Corps jurisdiction along this river is the MHWL under Section 10 and either the wetland boundary or the high tide line (HTL) under Section 404, whichever extends farther inland. The wetland boundaries as delineated by the consultant on the property were fairly obvious based on topography and vegetation breaks (note corrections as described below).

3. Wetland A:

Wetland "A," in the southwestern portion of the property, is part of a large Phragmites-dominated wetland that extends off the property onto an adjacent lot which borders the Delaware River. It is bounded by flag points beginning with "A." The entire wetland appears to be over 5 acres in size, with approximately 1.28 acres of the wetland on the subject property. Much of Wetland A was inundated with water above the surface (from what could be seen from the edge of the thick stand of Phragmites). Some aerial photos also show extensive ponding in Wetland A at times. Most of the boundary of Wetland A was accurate, but two minor corrections were made. First, flag point A23 was moved about 15 feet closer to Farragut Avenue, so that the boundary now goes from A25 to the new "A23A," thence to A22 (by-passing the old flag A24). Second, flag A21 was connected to A9, thus eliminating an upland "peninsula," which was previously shown extending into the adjacent property. This was based on the obvious wetland vegetation and hydrology (ponding) that was observed. Due to the inundation, the soil was not confirmed at these two locations, but it was presumed to be hydric based on the conditions.

According to the applicant's topographical survey, portions of this wetland are at or below the elevation of MHW. It is not clear if this wetland is contiguous with (abutting) the Delaware River, which is off the property. From a previous survey and inspection of the adjacent property (see CENAP-OP-R-2010-922), there appears to be a somewhat discontinuous river berm between the wetland and the river. From that, and aerial photography, even if Wetland A is not contiguous with the river, it is "neighboring" pursuant to 33 CFR 328.3(c), and it is adjacent to the TNW based on its close proximity (about 100 feet or less). It is also entirely within the 100-year flood plain of the Delaware River. As such, it is a water of the U.S.

4. Wetland B:

Wetland "B" is in the northeastern portion of the property, adjacent to 36th Street. It is bounded by flag points beginning with "B." It is approximately 0.41-acre in size, with 0.01 acre of it extending off the property along 36th Street. It is also dominated primarily by Phragmites, and it is surrounded by high berms of fill on three sides and 36th Street on the fourth. Wetland B had no inundation, but there was evidence of recent ponding in some areas. The boundary of Wetland B was found to be accurate as delineated by the consultant.

Elevations within this wetland are higher than Wetland A: within about 4 feet of the MHW elevation and generally within a foot of the 100-year flood plain elevation. Nearly all of the delineated wetland is within the mapped flood plain. At its closest point, the wetland is approximately 350 feet from the MHWL of the Delaware River (across 36th Street, see CENAP-OP-R-2004-1520). While the wetland is not contiguous with (i.e. abutting) the Delaware River, it is "neighboring" pursuant to 33 CFR 328.3(c). It is adjacent to the TNW based on its proximity and the fact that it lies mostly within the river's flood plain. As such, it is a water of the U.S.

Enclosure 1