

**TRADITIONAL NAVIGABLE WATERWAYS (TNWs) IN THE BUFFALO DISTRICT
APPROVED JURISDICTIONAL DETERMINATION FORM
U.S. Army Corps of Engineers**

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): April 22, 2008

B. BACKGROUND INFORMATION: As stated in Appendix D of the US Army Corps of Engineers (Corps) Jurisdictional Determination Form Instructional Guidebook: “when determining whether a water body qualifies as a “traditionally navigable water (TNW)” relevant considerations include whether a Corps District has determined that the water body is a navigable water of the United States pursuant to 33 C.F.R § 329.14, or the water body qualifies as a navigable water of the United States under any of the tests set forth in 33 C.F.R. § 329, or a federal court has determined that the water body is navigable-in-fact under federal law for any purpose, or the water body is “navigable-in-fact” under the standards that have been used by the federal courts. In addition, Appendix D affirms that EPA and the Corps will continue to assert jurisdiction over “[a]ll waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.” 33 C.F.R. § 328.3(a)(1); 40 C.F.R. § 230.3(s)(1).

The following provides the rationale and supporting documentation for TNW designation pursuant to Appendix D for the subject water body occurring within the Buffalo District’s regulatory boundaries in the states of New York and Ohio. Posting of this jurisdictional determination establishes Corps jurisdiction over this TNW under Section 404 of the Clean Water Act. The Buffalo District reserves the right to revise this determination at anytime as additional information warrants. The Buffalo District has determined that a site/project specific jurisdictional determination involving this TNW is not required as a TNW designation has already been completed. This and other approved jurisdictional determinations for TNWs are posted on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/jd.htm>. In addition, the current list of TNWs, including extent of each designation, occurring within the geographic limits of the Buffalo District may also be found on the Buffalo District’s regulatory website at <http://www.lrb.usace.army.mil/regulatory/TNWny.pdf> and <http://www.lrb.usace.army.mil/regulatory/TNWoh.pdf>

C. TNW/LOCATION

TNW: **Canandaigua Lake**

State: New York

County(ies): Ontario, Yates

Municipalities: Canandaigua, Naples, Gorham, Middlesex, Italy, South Bristol, Hopewell

D. REVIEW PERFORMED FOR SITE EVALUATION:

- Office (Desk) Determination. Date: April 22, 2008
 Field Determination. Date(s):

SUMMARY OF FINDINGS

CWA SECTION 404 DETERMINATION OF JURISDICTION.

The subject water body is a “*water of the U.S.*” under Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328).

- a. **Limits (boundaries) of TNW designation:** All areas below the ordinary high water mark of Canandaigua Lake from the southern inlet of Naples Creek in the Town of Italy to the northern outlet up to the NYS Route 5&20 bridges in the City of Canandaigua. This designation is for the lake proper and does not extend into the tributaries except as noted. The extent of the TNW described herein is depicted on the attached figure.
- b. **Rationale supporting determination:** This determination is based on the review and compilation of published information, reports/studies, and field observations to characterize the historical, present and/or potential use of this water body for navigation, including consideration of its use or potential susceptibility to use in interstate and foreign commerce. During this process the following information was documented:
 1. The physical characteristics, including its depth and size, indicate that the waterbody has the capacity to be navigated by watercraft.
 - i. Canandaigua Lake is 688 feet above sea level, 15.5 miles long, 1 mile wide (average) and a maximum depth of 276 feet.
 - ii. Canandaigua Lake is among the third largest of the glacial formed Finger Lakes.
 - iii. The shoreline is relatively straight and flat. Canandaigua Lake’s substantial length, width and depth provide adequate capacity to be navigated by watercraft.
 2. The waterbody is currently used for activities involving navigation and interstate commerce, such as recreational commercial navigation.
 - i. Canandaigua Lake currently serves as a recreational lake for people interested in boating, fishing swimming, etc. Recreational boats that can navigate the lake can range from canoes to small/medium power and sail boats. The lake’s depth and width allow easy navigation for boats from the southern to the northern part of the lake.
 - ii. There are no natural or man made barriers throughout the lake that could impede navigation.
 - iii. Several public boat launches provide easy access for water related recreation.
 - iv. Numerous private boat docks exist along the lake.
 - v. Several marinas and the public parks are located along the lake shoreline.
 - vi. The NYS High Tor Wildlife Management area is located at the southern end of the lake.
 - vii. In 2007, the NYS Department of Conservation did a fish stocking of Canandaigua Lake. The following species were distributed throughout Canandaigua Lake: Brown and Lake Trout which attract local and out-of-state anglers.
 - viii. Canandaigua Lake provides water to the NYS Erie Canal via a feeder canal/Canandaigua Outlet at the northern end.

Conclusion: Collectively, the above discussed factors demonstrate that Canandaigua Lake is navigable-in-fact, resulting in its designation as a TNW for purposes of CWA jurisdictional determinations and currently used in interstate or foreign commerce associated with commercial recreational navigation activities. This determination establishes Corps jurisdiction over this water body as a TNW under Section 404 of the Clean Water Act, pursuant to 33 C.F.R. Part 328.3(a)(1).

DATA SOURCES.

SUPPORTING DATA. Data reviewed for JD (check all that apply):

- Data sheets prepared by the Corps: TNW Determination for Canandaigua Lake
- Corps navigable waters' study:.
- U.S. Geological Survey Hydrologic Atlas:
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: 1:24000 Middlesex and Canandaigua
- 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: (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): <http://www.nvsgis.state.ny.us/> 2005
or Other (Name & Date):
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify): <http://www.canandaigualake.org/acrobat/publications/complan/chap1.pdf>
<http://www.dec.ny.gov/outdoor/23242.html>