



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 7/23/2020
 ORM Number: LRB-2020-00660 (Leroy Airport)
 Associated JDs: N/A
 Review Area Location¹: State/Territory: New York City: LeRoy County/Parish/Borough: Genesee
 Center Coordinates of Review Area: Latitude 42.980567°N Longitude -77.938425°W

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A or describe rationale.
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
N/A.	N/A.	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³			
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Mud Creek	2000 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Mud Creek is a blue line perennial stream (USGS Topo map) that contributes surface water flow indirectly to an a(1) water in a typical year. The flow is via Oatka Creek, to the Genesee River, to Lake Ontario, a Section 10 water of the United States. Mud Creek is an a(2) tributary, based on aerial photos and evaluation of the APT data (see below),

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District’s list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	PFO 2.01	acre(s)	(b)(1) Non-adjacent wetland.	<p>The eastern-most portion of the wetland is approximately 500-feet from Mud Creek where it daylights from a culvert under the railroad tracks. There are no obvious man-made berms or other obstructions between the wetland and the creek; however, based upon a review of aerial photos, topographic maps, and on-site observations, no other potential waters of the U.S. persist within the immediate vicinity of Wetland A. On-site observations reveal that the wetland is land-locked and defined by topography. The entire perimeter was walked and no connection to any swales, ditches, streams or other wetlands were identified. There is no indication that any a(1)-a(3) water inundates the wetland in a typical year (see ATP discussion below).</p> <p>This wetland is situated in an area having Canandaigua silt loam 0 to 2 percent slopes with a hydric indicator of 95. Soils surrounding the wetland all have a hydric soil indicator of 0.</p> <p>Based on the above information, the wetland does not abut an (a)(1)through (a)(3) water, nor is the wetland inundated by flooding by an (a)(1) through a(3) water, is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure/feature.</p>

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Lu Engineers – May 20, 2020 submitted with the JD request](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).

Photographs: [Aerial and Other: Delineation Photos taken in October 2019, NYS GIS Clearinghouse dated December 2019, aerials and topographic maps provided in the USACE ORM database.](#)

Corps site visit(s) conducted on: [06/16/20](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [ORM Number\(s\) and date\(s\)](#).

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [On-Line web soil survey; referenced on 12/09/19.](#)

USFWS NWI maps: [ORM Resource Referenced on October 10, 2019.](#)

USGS topographic maps: [Leroy, New York Quad.](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Maps and information available in the ORM database
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index and the University of Delaware WebWIMP.

An APT evaluation was run, associated with Google Earth Aerial photos for 1995, 2006, 2011, 2013, 2016, and 2018. The evaluation was run for the HUC 12 watershed, since there were no weather stations in the immediate vicinity of the site. Results indicate various conditions; four years normal, two years drier than normal, and one year of wetter than normal conditions. Aerials for all years suggest no inundation to the subject wetland from Mud Creek, the nearest a(1)-a(3) water. For each aerial photo reviewed, water was visible within Mud Creek.



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Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
42.980567	-77.938425	04/04/1995	-1.59	Mild drought	Wet Season	10	Normal Conditions
42.980567	-77.938425	06/06/2006	0.33	Normal	Dry Season	9	Drier than Normal
42.980567	-77.938425	05/09/2011	4.52	Extreme wetness	Dry Season	15	Wetter than Normal
42.980567	-77.938425	09/24/2013	1.84	Mild wetness	Dry Season	11	Normal Conditions
42.980567	-77.938425	04/19/2016	-0.83	Incipient drought	Wet Season	8	Drier than Normal
42.980567	-77.938425	06/28/2018	1.91	Mild wetness	Dry Season	10	Normal Conditions
42.980567	-77.938425	10/18/2019	3.27	Severe wetness	Wet Season	12	Normal Conditions

C. Additional comments to support AJD:

The site visit confirmed the conditions and wetland boundaries described in the delineation report and support documents/maps. Soil types include Benson soils, 0 to 8 percent slopes with a 0 hydric soil rating; Wassaic silt loam, 2 to 8 percent slopes with a 0 hydric soil rating; Ontario loam, 3 to 8 percent slopes with a 0 hydric soil rating. The USFWS Wetlands Mapper data source dates the map generally in the 1980's. The NWI does show a wetland mapped as scrub/shrub in the vicinity of Wetland A, however, since 1980 the wetland has succeeded to a forested wetland.