



**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): 8/5/2020

ORM Number: LRB-2010-00244 (Novelis Corporation)

Associated JDs: N/A

Review Area Location¹: State/Territory: New York City: Town of Oswego County/Parish/Borough: Oswego (448 County Route 1A)

Center Coordinates of Review Area: Latitude 43.49655 Longitude -76.457945

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.	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.	N/A.

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 1	350	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The unnamed perennial stream originates southeast of the site on the outskirts of Scriba in Oswego County. The stream flows northeast through various wetlands and reaches the subject wetland complex (Wetlands 1, 2, and 3) which is also regulated by the NYS Department of Environmental Conservation (NYSDEC) as OE-27. The stream conveys flow through the wetland complex to its confluence with Lake Ontario, a Section 10 navigable water of the United States. Further, the stream is depicted on

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
			the USGS topographic map as a perennial stream. The aerial photographs show this as a wide system with water in all observances.

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.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 1	.34-PFO acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetlands 1, 2, and 3 are all part of the same large wetland complex which is also regulated by the NYSDEC and identified by that agency as OE-27. The delineators named the wetlands individually for ease of identification in relation to the actual review area. The wetlands directly abut, within the review area, a perennial stream (Stream 1) which flows through the wetland complex to its confluence with Lake Ontario, a Section 10 navigable water of the United States.
Wetland 2	.34-PEM acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See above Wetland 1.
Wetland 3	.30-PEM acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	See above Wetland 1.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ephemeral Ditch 1	200 linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch is a non-maintained, man-made feature, excavated in soil identified as “cut and fill” originating in the east central portion of the parcel. The channel carries surface water discharge from impervious areas from the surrounding developed area into the larger wetland complex as identified above. The site is a large, developed area that has been highly manipulated in the past. The USGS map (ESRI updated 2020) does not indicate evidence of any previous stream in this location. Further, Google Earth Aerial photos for 1994, 2011,

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				<p>2015, 2017, 2019 do not depict the presence of water in the ditch. Information obtained by the delineator indicates that there was no water in the ditch at the time of the delineation. These factors suggest an ephemeral flow regime at best.</p> <p>Soils identified on the site consisted of cut and fill land with a hydric rating of 10; Ira and Sodus very stony soils, moderately steep with a hydric rating of 0; and Scriba gravelly fine sandy loam, 0 to 8 percent slopes with a hydric rating of 10.</p>
Ephemeral Ditch 2	300	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	The ditch is a non-maintained, man-made feature, excavated in soil identified as “cut and fill” originating in the northeast portion of the parcel. The channel carries surface water discharge from impervious areas from the surrounding developed area into the larger wetland complex as identified above. Note that the information for Ditch 1 applies to Ditch 2

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: [Wetland delineation conducted by LaBella Associates, was submitted with accurate, completed data sheets, photographs, NWI map, web soil survey with hydric soil ratings and other supporting information](#)

This information is sufficient for purposes of this AJD.

Rationale: [NA](#)

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

Photographs: [Aerial and Other: Global Earth, ESRI, photos taken in the field during the delineation are dated March 18, 2020 and April 20, 2020, Google Earth aerial photos for 1994, 2011, 2015, 2017, 2019](#)

Corps site visit(s) conducted on: [Date\(s\)](#).

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: [Web Soil Survey, referenced on April 27, 2020](#)

USFWS NWI maps: [Oswego East, New York Quad. The USFWS NWI Mapper indicates the map date as generally in the 1980's.](#)

USGS topographic maps: [Oswego East, New York Quad, ESRI updated in 2020](#)



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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	ORM maps
State/Local/Tribal Sources	N/A.
Other Sources	NYSDEC Freshwater Wetland Maps

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.

Evaluation of aerial photographs and results from the APT model indicate the presence of water in the perennial stream under normal conditions in a typical year. Water was visible in the perennial stream at each occurrence. Water was not observed in the ditches for any of the photographs.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
43.49655	-76.457945	04/21/1994	1.89	Mild wetness	Wet Season	17	Wetter than Normal
43.49655	-76.457945	06/02/2011	3.91	Severe wetness	Dry Season	14	Normal Conditions
43.49655	-76.457945	05/28/2015	-1.53	Mild drought	Wet Season	11	Normal Conditions
43.49655	-76.457945	04/13/2017	1.99	Mild wetness	Wet Season	15	Wetter than Normal
43.49655	-76.457945	10/10/2019	3.27	Severe wetness	Wet Season	11	Normal Conditions

C. Additional comments to support AJD: [Evaluation of the on-site conditions as presented in the submittal and substantiated by the photographs and data summary sheets appear to be clear and straight-forward. The review area is relatively small \(7.9 acres\) and does not present complicated details. Further, the aquatic resources identified are part of a large wetland/stream complex that is also regulated by the NYSDEC. Review of the NWI and the NYS DEC Freshwater Wetland maps suggest that Ditches 1 and 2 were excavated in a non-wetland area which also was not a stream. Further, the soil map shows that both ditches were excavated in an area identified as cut and fill. Aerial photographs over a range of 25 years shows the progressive development of the parcel as an electrical substation. The increase in work area and impervious surface prompted excavation of the ditches to convey surface water flow off of the site. All resources reviewed support the determination that these features are not jurisdictional waters of the United States.](#)