



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): August 17, 2020

ORM Number: LRB-2019-01060 (DDS Companies)

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Henrietta County/Parish/Borough: Monroe County

Center Coordinates of Review Area: Latitude 43.019127 Longitude -77.662017

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
Tributary A	1700 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Tributary A, an intermittent tributary to Honeoye Creek, is indicated on the USGS West Henrietta Quad as a dash/dot blue line which represents an intermittent stream. The tributary is indicated on the USFWS wetland Mapper and NYSDEC Environmental Resource Mapper. On the DEC mapper it's indicated as a Class C Stream, “waters supporting fisheries...”. The stream has defined bed/banks and OHW mark. In the delineation report, the consultant states the tributary displays intermittent flow that is 6-10 feet wide at top of bank and 4 feet deep from top of bank to bottom of channel with OHW mark approximately 4 feet wide and

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

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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 independent 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.

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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			12 inches deep. The watershed size is approximately 215 acres in size.
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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

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A directly abuts Tributary A.
Wetland B	0.15 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland B directly abuts Tributary A.
Wetland D	0.5 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland D directly abuts Tributary A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland C	0.28 acres	(b)(1) Non-adjacent wetland	In the delineation report, it states Wetland C is a forested pocket in the northeast corner of the site that appears to be a shallow excavated pit. The soils are Appleton loam, a potentially hydric soil. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from wetland C. Wetland C is more than 500 linear feet from Tributary A (A-3 water) on the delineation map to the South or any other tributary identified from an in-house review of aerial imagery, topo maps and the NYSDEC environmental resource mapper. No other A-1 to A-3 waters were identified within the vicinity of the wetland during an in-house review. According to the delineation report, the wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A-1 to A-3 waters. Photos included within the delineation report and a review of aerial imagery show no natural or artificial barrier between Wetland C and Tributary A. All resources reviewed support the determination that Wetland C doesn't directly abut an A(1)-A(3) waters, are not separated from an A(1)-A(3) waters by a natural or man-made feature and are not adjacent to an A(1)-A(3) waters.

III. SUPPORTING INFORMATION

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

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- 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 report submitted by BME Associates, "1000 Rush-Henrietta Townline Road" dated August 2019 for The DDS Companies.* This information is sufficient for purposes of this AJD. Rationale: The delineation report clearly identifies the waters, upland areas and delineated boundary. All applicable areas of the data sheets were filled out correctly and clearly defined the upland or wetland point. Finally, the delineation report contained aerial imagery figures throughout the years, project location map, soil survey map and other applicable figures.
 - Data sheets prepared by the Corps: *Title(s) and/or date(s).*
 - Photographs: Photos included with the delineation report, aerial imagery review of Bing, Google Earth Maps. Aerial imagery provided by the consultant that shows the parcel throughout the years.
 - 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: NRCS Web Soil Survey
 - USFWS NWI maps: USFWS Wetland Mapper
 - USGS topographic maps: West Henrietta 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	N/A.
State/Local/Tribal Sources	NYSDEC Environmental Resource Mapper- State regulated wetland is located in the western portion of the site and incorporates Wetland D. Also, Tributary A is indicated as a solid blue line and identified as a Class C stream.
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.

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The APT model indicates normal conditions with a PDSI class ranging from Mild Wetness to Severe Wetness. However, inundation of Wetland C by the nearest tributary, Tributary A, was not evident in any year examined, aerial imagery review and the APT model indicates Tributary A (A(3) Waters) wouldn't inundate Wetland C.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	APT
43.01988	-77.6617	4/1/1994	1.89	Mild wetness	Wet Season	13	Normal Conditions
43.01988	-77.6617	4/1/2002	0.77	Incipient wetness	Wet Season	11	Normal Conditions
43.01988	-77.6617	11/1/2016	3.91	Severe wetness	Wet Season	17	Wetter than Normal
43.01988	-77.6617	6/1/2014	2.98	Moderate wetness	Dry Season	14	Normal Conditions
43.01988	-77.6617	9/1/2017	3.2	Severe wetness	Dry Season	14	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 approximately 15.75 acres and does not present complicated details. The delineated parcel is surrounded by commercial development, wooded areas and NYS Route 390.. A review of in-house resources, USFWS NWI Maps, USGS Quad Map and NRCS Web Soil Survey indicated mapped hydric soils, wetlands and a stream (Tributary A) located on the delineated parcel. In addition, the NYSDEC Environmental Resource Mapper indicates Tributary A as a "Class C" stream (waters supporting fisheries) and a State regulated wetland to the West (Wetland D). A review of aerial imagery (1994, 2002, 2006, 2014 and 2017) showed Tributary A but no streams within the vicinity of Wetland C on the delineated parcel. All resources reviewed support the determination that Wetlands A, B and D are jurisdictional as they directly abut an A (3) waters, Tributary A. However, Wetland C is excluded/non-jurisdictional because it doesn't directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not inundated by an a(1)-a(3) water in a typical year.

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