



**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): 10/26/2020

ORM Number: LRB-2020-00756

Associated JDs: N/A

Review Area Location<sup>1</sup>: State/Territory: New York City: Pine City County/Parish/Borough: Chemung

Center Coordinates of Review Area: Latitude 42.024031 N Longitude -76.841142 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)<sup>2</sup>**

§ 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): <sup>3</sup>			
(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
N/A.	N/A.	N/A.	N/A.

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
N/A.	N/A.	N/A.	N/A.

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

<sup>2</sup> 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.

<sup>3</sup> 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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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12)): <sup>4</sup>				
Exclusion Name	Exclusion Size		Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Unnamed Ditch/Drainage to Christian Hollow Creek	120	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	An unnamed ditch/drainage to Christian Hollow Creek is located to the North of Lightizer Road flowing from the east to west, approximately 75 linear feet into Christian Hollow Creek. This water being reviewed is 120 linear feet including the recently installed culvert (70 linear feet) and upstream bank stabilization area (50 linear feet), which was installed in 2018 after a storm event caused damage. Based on the review of multiple aerial images (November 2006, May 2020), photographs submitted to the Corps with dates of 2018 and 2020, USGS quadrangles and data from USGS StreamStats website, it has been determined that the stream has ephemeral flow. A review of the USGS quadrangles dating back to 1895 on the USGS living atlas website, indicate that this water is a channelized stream channel; channelized sometime between 1905 and 1953. USGS Streamstats shows the drainage area to be very limited, only draining 0.00042 acre of area. However, a drainage area map provided by Chemung County Soil and Water Conservation District indicates that the area is much larger and is consistent with the historical location of the stream as shown on USGS quadrangles. The watershed is located in an area of foothills with steep topography, resulting in rapid runoff during precipitation events, which is the main source of hydrology to this water. Oblique aerial imagery dated November 2006 and May 2020 show some water in the channel. Photographs were provided by Chemung County SWCD dated January 2018, right after the storm event and prior to new culvert and bank stabilization stone project completion, and August 27, 2020. The photographs from January 2018 show some water flowing in the channel. The August 27, 2020 photographs show no flowing water in the channel and only a small pool of water near the culvert. An Antecedent Precipitation Tool report was run for the oblique imagery and photographs and those reports support the determination of ephemeral flow, which is explained below in the Typical Year assessment location.

**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.

<sup>4</sup> 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.

<sup>5</sup> 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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- Information submitted by, or on behalf of, the applicant/consultant: [Title\(s\) and date\(s\)](#)  
This information [Select](#). sufficient for purposes of this AJD.  
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Oblique Imagery from <https://explorer.pictometry.com/index.php>, dated 2May2020 and 25Nov2006. Photographs dates 31AUG2018 and 27AUG2020.](#)
- 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: <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> – accessed on 9OCT2020
- USFWS NWI maps: <https://fwsprimary.wim.usgs.gov/wetlands/apps/wetlands-mapper/> - accessed 9OCT2020
- USGS topographic maps: <https://livingatlas.arcgis.com/topoexplorer/index.html> – accessed 9OCT2020 - Quad: NY-Elmira 1992 and NY – Elmira 1895.

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
<a href="#">USGS Sources</a>	<a href="https://streamstats.usgs.gov/ss/">StreamStats - https://streamstats.usgs.gov/ss/ ; accessed 9OCT2020</a>
<a href="#">USDA Sources</a>	N/A.
<a href="#">NOAA Sources</a>	N/A.
<a href="#">USACE Sources</a>	N/A.
<a href="#">State/Local/Tribal Sources</a>	N/A.
<a href="#">Other Sources</a>	<a href="https://gisservices.dec.ny.gov/gis/erm/">NYS Department of Environmental Conservation Resource Mapper - https://gisservices.dec.ny.gov/gis/erm/</a> , accessed 9OCT2020. <a href="#">Data provided by NYSDEC Region 9.</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. The APT tool was to determine typical year as observed for four resources of the subject area: Oblique aerial imagery, dates 11/25/2006 and 5/2/2020; Chemung County Soil and Water District Photographs dated 8/31/2018 and 8/27/2020.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip	Condition
42.024031	-76.841142	11/25/2006	4.06	Extreme wetness	Wet Season	18	Wetter than Normal	
42.024031	-76.841142	5/2/2020	2.42	Moderate wetness	Wet Season	16	Wetter than Normal	
42.024031	-76.841142	8/31/2018	3.56	Severe wetness	Dry Season	17	Wetter than Normal	
42.024031	-76.841142	8/27/2020	0.68	Incipient wetness	Dry Season	8	Drier than Normal	

These resources indicate that the three resources (11/25/2006, 5/2/2020, 8/31/2018) showing water in the



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subject water channel were wetter than normal time frames and did not represent 'typical years.' The APT report for the fourth resource, photographs dated 8/27/2020, indicated a 'drier than normal' time, not representing a typical year. In any event, these resources indicate that water presence in the subject water is only present during wetter than normal time frames, which is typical of an ephemeral flow stream channel.

- C. Additional comments to support AJD:** Based on the in-office resource review, including aerial imagery, USGS resources, and photographs/drawings submitted by Chemung County SWCD, it has been determined that this 120 linear feet of an unnamed ditch/drainage to Christian Hollow Creek has ephemeral flow. Thus, the 120 linear feet of an unnamed ditch/drainage to Christian Hollow Creek is an excluded (b)(3) Ephemeral feature.