



**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): 11/30/2020

ORM Number: LRB-2020-01466

Associated JDs: N/A.

Review Area Location¹: State/Territory: New York City: Webster County/Parish/Borough: Monroe

Center Coordinates of Review Area: Latitude 43.2369 Longitude -77.3961

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-1 and A-2	600 and 440	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year. Onsite observations indicate that Tributaries A-1 and A-2 are perennial a(2) tributaries. Water was observed flowing within these stream channels during the November 19, 2020 site visit. The Antecedent Precipitation Tool (See Typical Year Assessment below) indicates that the site visit was conducted during a period of normal precipitation. No fish were observed and maximum pool depth was approximately 18 inches. Tributary A-2 is identified as an intermittent stream on the Webster USGS Quad. Based on the above it has been

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
			determined that these tributaries are intermittent a(2) tributaries.

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	0.12 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Only a small portion of Wetland A is located on the subject parcel. Access to the offsite portion of Wetland A was not provided. Onsite observations from the subject parcel offsite to the south appear to show wetland extending offsite. Since this is not conclusive, a review of digital resources is required in order to determine the jurisdictional status of Wetland A. The National Wetland Inventory identifies a palustrine forested wetland located in proximity to Wetland A which extends to the south and west to Tributary A-1. The New York State's Department of Environmental Conservation identifies a state-regulated wetland at the location of the onsite portion of Wetland A, extending south and west to Tributary A-1. Based on the onsite observations and the information identified from digital resources, it has been determined that Wetland A abuts Tributary A-1, a Clean Water Act Section 404 a(2) tributary.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetlands B, C and D	0.72, 0.58 and 0.10 acre(s)	(b)(1) Non-adjacent wetland.	Wetlands B, C and D do not meet any of the four criteria that would make an (a)(4) adjacent water subject to jurisdiction under Section 404 of the Clean Water Act. These wetlands were circumnavigated during the site visit. No defined channels/tributaries/ditches were observed flowing from these wetlands to any (a)(1-3) water. Of these three wetlands, Wetland C is located in closest proximity to an a(1-3) tributary - approximately 125 LF from Tributary A-1.

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
				Based on site observations there is no evidence that the nearest a(1-3) water would flood any of the wetland area at least once during a typical year. Also, there are no natural berms or the like located between any a(1-3) water and these wetlands.

Excluded waters ((b)(1) – (b)(12)): ⁶				
Exclusion Name	Exclusion Size		Exclusion ⁷	Rationale for Exclusion Determination
Tributary B	350	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Tributary B had no water nor did the channel have more moisture content than the surrounding wetlands and uplands. In fact, there was no evidence of flow with the channel. Onsite observations indicate that the channel was excavated from Wetland B to C for purposes of conveying water. As such, it has been determined that Tributary B is b(3) excluded ephemeral swale.

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: [Federal Wetland Delineation Report for Salt Road Property, prepared for 590 Salt Road LLC, prepared by BME Associates, October 2020.](#)

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: Title\(s\) and/or date\(s\).](#)
- Corps site visit(s) conducted on: [November 19, 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [Title\(s\) and/or date\(s\)](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Title\(s\) and/or date\(s\).](#)
- USFWS NWI maps: [Webster NY](#)
- USGS topographic maps: [Webster, NY 7.5 min](#)

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.

⁶ 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.

⁷ 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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Data Source (select)	Name and/or date and other relevant information
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	New York State Department of Environmental Conservation Resource Mapper
Other Sources	N/A.

B. Typical year assessment(s): The subject parcel's latitude/longitude was entered into the Antecedent Precipitation Tool (APT) which was used to determine average precipitation, total precipitation over the 90 days preceding the Corps' site visit, and whether the site visit was conducted under dry, normal or wet conditions. The APT pulled precipitation data from the nearest ten weather stations – Macedon, Webster 2NE, Ontario 3.4 WSW, Webster 4.4 WNW, Rochester 5.8 ESE, East Rochester 2.1 NW, Fairport 1.6 NNE, East Rochester 0.3 SE, Sodus 1W, and Rochester GTR Intl AP. The APT shows that normal precipitation at the location of the site is between the 30th (2.4") and 70th (4.0") percentiles. The APT indicates that 0-30 days prior to the visit precipitation was 4.1" which is above the 70th percentile. Thirty to 60 days prior the APT indicates that precipitation was 2.2" which is below the 30th percentile and 60 to 90 days prior precipitation was 2.8" which is between the 30th and 70th percentiles. Therefore, one month prior to the site visit precipitation was wetter than normal, two months prior to the site visit precipitation was drier than normal and three months prior to the date of the site visit precipitation was considered to be normal for that time of year.

The APT, using a weighted approach, indicates that the site visit was conducted during a period of normal precipitation.

C. Additional comments to support AJD: Streams 1 flows north for approximately 2 miles into Fourmile Creek, an a(2) perennial tributary, which flows west approximately 1 mile into Lake Ontario, an a(1) navigable water.