



**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): 12/1/2020
 ORM Number: LRB-2020-00833
 Associated JDs: N/A
 Review Area Location¹: State/Territory: New York City: Bath County/Parish/Borough: Steuben
 Center Coordinates of Review Area: Latitude 42.314006°N Longitude -77.379787°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
Stream 4	445	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Stream 4 is the beginning of Knight Creek which is a blue line perennial stream, as identified in the wetland delineation and shown on the USGS Topo map, that contributes surface water flow directly to the Cohocton River.

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
Wetland B	0.22	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B directly abuts Stream 4, which is a perennial stream.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Streams 6 and 7	1,146 and 23, respectively	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).	Stream 6 is a constructed channel through uplands to drain the landfill detention ponds just to the north. Stream 6 is a small channel lined with riprap, has no ordinary high water mark and is ephemeral as water only drains from the pond above during high precipitation events. Stream 7 does not appear to have been constructed, but otherwise has the same characteristics of Stream 6, with no ordinary high water mark and is ephemeral. Topo maps do not show any streams mapped in these locations, but the headwater of an unnamed tributary does occur to the south and it appears that Streams 6 and 7 would drain into it.
Wetlands M, N, O, P	M 0.01, N 0.03, O 0.02, P 0.09	acre(s)	(b)(1) Non-adjacent wetland.	These small wetlands are low areas abutting either Stream 6 or Stream 7, which are not a(1) – a(3) waters. Soils surrounding the wetland all have a hydric soil indicator of 0. The headwater stream to the south, located in the same valley, receives flow predominately from ground water and would not flow uphill and inundate Streams 6 and 7 or the wetlands even in high precipitation events, this an ATP analysis was not warranted. 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 these wetlands. Based on the above information, the wetlands do not abut an (a)(1)through (a)(3) water, nor are the wetlands inundated by flooding by an (a)(1) through a(3) water, are not

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
				separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and are not separated from an a(1) – a(3) water via an artificial structure/feature.
Wetlands DD, J, Q, I, EE, E, HH, G, H, GG, FF, F	DD 1.18, J 0.18, Q 0.06, I 0.11, EE 0.39, E 0.02, HH 0.04, G 0.01, H 0.07, GG 0.17, FF 0.06, F 0.01	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of these wetlands. The wetlands are all shallow surface concave depressions that collect water and hold it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between each of these wetlands and the nearest unnamed tributary to the south, nor were any observed during the site visit. The NRCS/USDA Web Soil Survey “Flood Frequency Class” rating is “none” which means flooding is not probable. The chance of flooding is nearly 0 percent in any year. These wetlands are much higher in elevation and at such a distance from the nearest off-site stream that an ATP analysis is not warranted as inundation from that stream is not possible. All resources reviewed support the determination that these wetlands do not 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.
Wetland C	0.18	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The wetland has open water which is a farm pond that was dug from an upland area to water sheep many years ago. The linear portion going north was examined during the site visit and it maintained wetland characteristics until the last 74 linear feet before the culvert. This 74 foot section has bed and bank features. This drains through the culvert to the man-made ditch within the landfill drainage system that connects to Wetland A, which is a stormwater pond also constructed in uplands.
Unmapped Stream 5	74	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	This 74-foot section, also discussed above, has bed and bank features, but no OHWM. This drains through the culvert to the man-made ditch within the landfill drainage system that connects to Wetland A, which is a stormwater pond. Photos and aerial imagery included within the



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				delineation report show no natural or artificial barrier between each of these wetlands and the nearest unnamed tributary to the south, nor were any observed during the site visit. There is no evidence from topo maps that there was ever a stream located here and appears the bed and bank features may have formed by water draining from Wetland C as Wetland C goes from relatively flat to steeper along these 74 feet before the culvert. The NRCS/USDA Web Soil Survey “Flood Frequency Class” rating is “none” which means flooding is not probable. The chance of flooding is nearly 0 percent in any year.
Wetland A	445	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	Wetland A is a stormwater pond excavated in uplands when the landfill was constructed.

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 report for Bath Landfill Eastern Expansion, October 2019, submitted by Barton & Loguidice](#)

This information is sufficient for purposes of this AJD.

Rationale: [The wetland delineation was submitted with accurate and complete data sheets, photographs, NWI and NYSDEC maps, web soil survey and other supporting information.](#)

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

Photographs: [Aerial and Other: Site photos and aerial photos provided in the delineation](#)

Corps site visit(s) conducted on: [10/5/2020](#)

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: [Steuben County](#)

USFWS NWI maps: [Steuben County](#)

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



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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	Maps and information available in the ORM database
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s):

C. Additional comments to support AJD: