



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): 29-JAN-2021
ORM Number: LRB-2017-01114
Associated JDs: N/A
Review Area Location¹: adjacent to 92 Wells Ave., west of North Genesee Street
State/Territory: NY City: Utica County: Oneida County
Center Coordinates of Review Area: Latitude 43.108472 Longitude -75.223342

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
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
2017-01114 Wetland W2	0.01 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	W2 abuts and extends below the ordinary high water mark (OHW) (correlating to an elevation of 397 ft.) of

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			the Utica Harbor of the Erie Canal, which is listed on the LRB Section 10 navigable waters list and located just outside the JD review area to the south.
2017-01114 Wetland W8 PEM/PSS	0.26 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	W8 is made up of two cover types (PEM & PSS) separated from W9 by a dirt/gravel access road with flow maintained between the wetlands by a 20 inch corrugated plastic culvert in the roadway fill. W8 & W9 appear to have been one contiguous wetland, located at the base of the western berm of the former disposal site for canal dredge spoil prior to the roadway installation, extending to the harbor.
2017-01114 Wetland W9 PEM/PSS	0.03 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	W9 is made up of two cover types (PEM & PSS) which abuts and extends below the OHW mark of the Utica Harbor of the Erie Canal and located just outside the JD review area to the south.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
2017-01114 Wetland W1	0.42 acres	(b)(1) Non-adjacent wetland	W1 is predominately PEM located at the base of the southwestern berm of the former disposal site for canal dredge spoil and a slightly elevated old dirt access road. W1 extends south toward W2 but is separated by the gravel access road. Although it appears water from W1 discharges into W2, it does not occur through a culvert but through shallow subsurface flow. The roadway is at elevation 405 ft. Information provided with the JD requests demonstrates that the river would need to crest the moderate flood elevation (404.5 ft.) to inundate this wetland. This elevation is not expected to be reached in a typical year as recent crest data from the Utica gage indicates this stage was only exceeded in 8 years out of the last 20 years. The wetland is separated from the river by the roadway without an engineered direct surface water conveyance. All resources reviewed support the determination that Wetland W1 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.
2017-01114 Wetland W3 PFO/PUB	0.05 acres	(b)(1) Non-adjacent wetland	W3 is comprised of two cover types (PFO & PUB) and is located along the eastern property line to the north of an existing building. W3 appears to have been formed by past excavation activities based on the presence of fill material and relic berms in proximity to this wetland. W3 is depressional with no surface water drainage features and is located approximately 620 ft. from the canal to the south and 520 ft. from the Mohawk River, a Section 10 LRB listed navigable water, to the north.

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			The OHW of the Mohawk River correlates to an elevation of 397 ft., same as the canal with the top of riverbank being 407 ft. Major flood stage for the canal & river is at 406.5 ft and has only reached/exceeded this stage in 7 separate years since 1907 based on the Utica gage data. The most recent being in 2013. W3 is at an elevation of 410 ft. and is clearly not inundated by either the canal or the river in a typical year. All resources reviewed support the determination that Wetland W3 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.
2017-01114 Wetland W4 PFO/PSS/PUB	0.2 acres	(b)(1) Non-adjacent wetland	W4 is comprised of three cover types (PFO, PSS & PUB) and is located along the eastern property line. W4 appears to have been formed by past excavation activities based on the presence of fill material and relic berms in proximity to this wetland. W4 is separated from W3 by multiple spoil piles and from W5 by a relic berm. An artificial drainage was observed near the edge of W4 in a maintained lawn area off the site to the east and associated with the motel property (currently a Best Western). The drainage consisted of a strip of gravel, presumably over drainpipe, and two, 4-inch corrugated plastic pipes (CPP). The ends of the CPPs were observed protruding from the steep bank along the Mohawk River near a dumpster at the northwestern corner of the paved hotel parking lot. The OHW of the Mohawk River in this area appears to be approximately 12 feet lower in elevation from the CPPs outfall location (CPP elevation at approximately 409 ft with Mohawk River OHW at elevation 397 ft). It is evident that water from the river does not inundate W4 via overland or through the culverts in a typical year. All resources reviewed support the determination that Wetland W4 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.
2017-01114 Wetland W5 PEM/PSS/PFO/ PUB	0.66 acres	(b)(1) Non-adjacent wetland	W5 is comprised of four cover types (PEM, PFO, PSS & PUB) and is in the northeastern corner of the property and adjacent to a utility corridor. W5 appears to have been formed by past excavation activities based on the presence of fill material and relic berms in proximity to this wetland. W5 is separated from W4 by a relic berm. The Mohawk River is located just outside the JD review area to the north (> 70 ft. from the

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			<p>closest wetland. Information provided with the JD request demonstrates that the river would need to crest the major flood elevation (406.5 ft.) to inundate this wetland. This elevation would not be reached in a typical year as discussed above under W3. The wetland is separated from the river by an upland utility corridor and the natural bank. All resources reviewed support the determination that Wetland W5 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.</p>
2017-01114 Wetland W6 PEM/PSS	0.15acres	(b)(1) Non-adjacent wetland	<p>W6 is comprised of two cover types (PEM & PSS) and is located at the base of the southern berm of the former disposal site for canal dredge spoil and adjacent to an access road corridor. The Erie Canal is located just outside the JD review area to the south (> 50 ft. from the closest wetland point.) The OHW of the canal was determined to correlate to the elevation of 397 ft. No culverts are in the roadway fill in the location of W6. The roadway is at elevation 403 ft. Information provided with the JD requests demonstrates that the river would need to crest the moderate flood elevation (404.5 ft.) to inundate this wetland. This elevation is not expected to be reached in a typical year as discussed above under W1. The wetland is separated from the river by the roadway and the natural bank. All resources reviewed support the determination that Wetland W6 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.</p>
2017-01114 Wetland W7 PEM/PSS	0.23 acres	(b)(1) Non-adjacent wetland	<p>W7 is comprised of two cover types (PEM & PSS) and is located at the base of the northern berm of the former disposal site for canal dredge spoil and adjacent to a utility corridor. The Mohawk River is located just outside the JD review area to the north (> 40 ft. from the closest wetland point.) The OHW of the river was determined to correlate to the elevation of 397 ft. with the top of river bank being 407 ft. Information provided with the JD requests demonstrates that the river would need to crest the major flood elevation to inundate this wetland. This elevation would not be reached in a typical year. The wetland is separated from the river by an upland utility corridor and the natural bank. All resources reviewed support the determination that Wetland W7 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters</p>

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			by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.
2017-01114 Stormwater pond	0.01 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Most of the site was formerly a controlled upland disposal site for the dewatering of dredged sediments from the canal maintenance hydraulic dredging activities. The site included a large sediment basin with large perimeter earthen berms and a smaller interior berm. The site use was discontinued by NYS and the property transferred to the City of Utica. As part of the sale agreement NYS regraded the interior of the bermed sediment basin to fill low spots and to prevent ponding of water from rain events to facilitate future redevelopment for commercial/residential use. Associated with this grading work, a small stormwater pond was constructed which utilizes the old outfall pipes which are set with an invert elevation of approximately 408 ft. and discharge to the Utica Harbor at an elevation of 404 ft. The pipes do not extend below OHW (397 ft.) of the harbor.
2017-01114 Drainage ditch	0.09 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	As part of the stormwater management system discussed above, an ephemeral drainage ditch was constructed in the vicinity of a former interior berm within the disposal site basin. During rain events, the drainage ditch is designed to convey surface water runoff to the storm water basin to eliminate standing water in the center of the former basin.

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.

X Information submitted by, or on behalf of, the applicant/consultant: Ramboll Wetland delineation report dated 1/30/2020, survey drawings with wetland boundaries submitted 12/2/2020 with W5 cover type corrections received 1/25/21.
This information is sufficient for purposes of this AJD.
Rationale: N/A

 Data sheets prepared by the Corps: *Title(s) and/or date(s)*.

X Photographs: Site photos dated 11/3/2020 taken by Ramboll provided with 12/2/2020 AJD request. EDR aerial photo package dated 10/17/2014 which includes: 1941, 1960, 1974, 1981, 1989, 1995, 2008, 2009 & 2011 showing history of use as a canal dredge disposal site. Site photos contained in the Cultural Resource Survey dated January 2015. Ramboll delineation site photos dated 5/1/2018. Canal aerial dated ~ 1980. Google earth aerials: 5/95, 3/08, 5/09, 5/11, 7/11, 5/15, 4/16 & 10/17. Digital Globe aerials: 8/19, 4/18, 2/17 & 9/16. Connect explorer 4/15. NYS GIS: 1994 IR, 2008, 2013, & 2017.

 Corps Site visit(s) conducted on: *Date(s)*.

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- ___ 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 Websoil survey viewed on 11/12/2018 from delineation report .
 USFWS NWI maps: USFWS NWI web mapper dated 11/13/2018 from delineation report
 USGS topographic maps: 1:24,000 from delineation report.

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	N/A.
Other Sources	FEMA floodplain map submitted with delineation indicates site is within mapped floodplain for the Mohawk River, Zone AE at 411 ft. elevation.

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 following table summarizes the APT results for each Google Earth aerial photograph reviewed for the years 2015, 2017, 2018 & 2019.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
43.10847	-75.2233	8/2/2019	4.17	Extreme wetness	Dry Season	16	Wetter than Normal
43.10847	-75.2233	4/24/2018	1.91	Mild wetness	Wet Season	14	Normal Conditions
43.10847	-75.2233	10/2/2017	2.2	Moderate wetness	Wet Season	7	Drier than Normal
43.10847	-75.2233	4/25/2015	-1.27	Mild drought	Wet Season	11	Normal Conditions

The APT referenced 85 individual weather stations with the results that normal conditions prevailed for 2015 & 2018; with drier than normal conditions indicated for 2017 and wetter than normal in 2019.

The typical year assessment needed for this Approved Jurisdictional Determination is to assess whether or not flow would occur from the Mohawk River and/or Utica Harbor into the wetlands within

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the JD review area. There is no indication of inundation. It is noted that numerous aerial photos from 1941-2019 were reviewed for this site, beyond the 4 most recent years selected for the APT. None of the aerials showed any flooding of the site from either the canal or the Mohawk River.

C. Additional comments to support AJD: N/A

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