



**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): 1/25/2021
 ORM Number: LRB-2018-00855
 Associated JDs: LRB-2018-00855 PJD, 10/25/2018
 Review Area Location¹: State/Territory: NY City: Lewiston County/Parish/Borough: Niagara
 Center Coordinates of Review Area: Latitude 43.224004 Longitude -79.043627

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

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland A	0.405	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland A. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland A does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland D	0.19	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland D. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland D does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.

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	
				year.
Wetland E	0.071	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland E. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland E does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland F	0.1	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland F. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland F does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland G	0.21	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland G.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
				The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland G does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland Ga	0.884	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland Ga. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland Ga does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland H	0.205	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland H. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
				being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland H does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.
Wetland I	0.299	acre(s)	(b)(1) Non-adjacent wetland.	The delineation indicated no drainages or tributaries are within the vicinity of Wetland I. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but do not drain to any (a)(1)-(a)(3) waters, the nearest being approximately 1,500 feet distance from the wetland. Photos and aerial imagery included within the delineation report show no natural or artificial barrier between this wetland and the Niagara River, 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. All resources reviewed support the determination that Wetland I does not directly abut any a(1)-a(3) waters, is not separated from any a(1)-a(3) waters by a natural or man-made feature and is not inundated by any a(1)-a(3) waters in a typical year.

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, submitted in 2018](#)

This information is sufficient for purposes of this AJD.

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



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- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Provided in the wetland delineation](#)
- Corps site visit(s) conducted on: [9/17/2018](#)
- 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: [Niagara County](#)
- USFWS NWI maps: [Niagara County](#)
- USGS topographic maps: [1:24K Lewiston](#)

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	N/A.

B. Typical year assessment(s): [N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.](#)

C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)