



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): 13-JAN-2021
ORM Number: LRB-2020-00369 (Clarence, Town of - 6185-6221 Goodrich Road)
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)
Review Area Location¹:
State/Territory: NY City: Clarence County/Parish/Borough: Erie County
Center Coordinates of Review Area: Latitude 43.016332 Longitude -78.636982

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

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² If the navigable water is not subject to the ebb and flow of the tide and 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.

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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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	1551 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)	Ditch 1 is an excavated ditch that was used for past farming activities. During the July 2020 site visit, it was observed the ditch begins on the South side of the parcel and flows North. The ditch bed and banks were vegetated with no sediment, cobbles or water present. It appears the ditch has an ephemeral flow. In an email dated December 17, 2020, the Town of Clarence Engineer stated the ditch, "...flows north to Keller Road into a closed drainage system owned by Erie County and then flows north along Deerview Court within a closed drainage system owned by the Town, ultimately flowing west across Goodrich Road to a pond owned by Lakeside Sod and used for irrigation of the sod fields, ultimately flowing north across County Road". According to the consultant and Town the ditch is actively mowed and maintained by the Town on a needed basis. The ditch doesn't contribute direct flow to an A(1) water or is an A(1) water, the ditch was not constructed in a tributary, doesn't relocate a tributary nor or was the ditch constructed in an adjacent wetland. Finally, the ditch doesn't contribute perennial or intermittent flow during a particular year.
Ditch 2	87 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)	Ditch 2 is an excavated ditch that was used for past farming activities. During the July 2020 site visit, it was observed the ditch begins on the East side of the parcel and flows North. The ditch bed and banks were vegetated with no sediment, cobbles or water present. It appears the ditch has an ephemeral flow. In an email dated December 17, 2020, the Town of Clarence Engineer stated ditch 2 also flows North to Keller Road and follows the same flow direction as Ditch 1 stated above. According to the consultant and Town the ditch is actively mowed and maintained by the Town on a needed basis. The ditch doesn't contribute direct flow to an A(1) water or is an A(1) water, the ditch was not constructed in a tributary, doesn't relocate a tributary nor or was the ditch constructed in an adjacent wetland. Finally, the ditch doesn't contribute perennial or intermittent flow during a particular year.
Wetland 1	0.06 acres	(b)(1) Non-adjacent wetland	During the site visit, it was observed Wetland 1 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydrophitic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 1. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 1 during the site visit. Although, the USGS Quad and

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			<p>USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 1 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 1 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.</p>
Wetland 2	1.4 acres	(b)(1) Non-adjacent wetland	<p>During the site visit, it was observed Wetland 2 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 2. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 2 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 2 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, the NRCS/USDA Web Soil Survey “Flood Frequency Class” rating is “none” which means,</p>

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			<p>“...flooding is not probable. The chance of flooding is nearly 0 percent in any year”. All resources reviewed support the determination that Wetland 2 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.</p>
Wetland 3	2.92 acres	(b)(1) Non-adjacent wetland	<p>During the site visit, it was observed Wetland 3 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 3. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 3 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 3 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 3 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.</p>
Wetland 4	4.01 acres	(b)(1) Non-adjacent wetland	<p>During the site visit, it was observed Wetland 4 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 4. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 4 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource</p>

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			<p>Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 4 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 4 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.</p>
Wetland 5	0.29 acres	(b)(1) Non-adjacent wetland	<p>During the site visit, it was observed Wetland 5 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 5. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 5 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 5 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 5 doesn’t directly abut an A(1)-A(3) waters, is not separated from</p>

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			an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.
Wetland 6	0.8 acres	(b)(1) Non-adjacent wetland	During the site visit, it was observed Wetland 6 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 6. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 6 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 6 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 6 doesn't directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.
Wetland 7	0.1 acres	(b)(1) Non-adjacent wetland	During the site visit, it was observed Wetland 7 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 7. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 7 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC

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Wetland 8	0.65 acres	(b)(1) Non-adjacent wetland	During the site visit, it was observed Wetland 8 is an emergent/scrub-shrub pocket. The soils are mapped potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 8. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 8 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 8 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 8 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.
Wetland 9	6.31 acres	(b)(1) Non-adjacent wetland	During the site visit, it was observed Wetland 9 is an emergent/scrub-shrub pocket. The soils are mapped

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			<p>potentially hydric and non-hydric. Vegetation found within this wetland is a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 9. No A(1)-A(3) waters were identified directly abutting or adjacent to Wetland 9 during the site visit. Although, the USGS Quad and USFWS Wetland mapper indicate a stream in the Northeast portion of the delineated parcel, no stream or remnants of a stream was observed during the site visit and a review of the NYSDEC Environmental Resource Mapper, topo maps, aerial imagery and the USGS Quad map. No A(1) – A(3) waters were located on the delineated parcel. Ransom Creek, a possible A(2) water, was identified on the USGS Quad and NYSDEC Environmental Resource mapper and is approximately more than 2,000 linear feet to the West from the western boundary of the delineated parcel. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 9 and A(1) – A(3) waters were found during the site visit. The wetland is not inundated by an A(1) – A(3) waters. Also, 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 9 doesn’t directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.</p>
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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 dated February 2020 and additional information dated September 2020 submitted by Earth Dimensions, Inc*

Rationale: *The reports submitted by EDI contained accurate, completed data sheets, photographs, NWI map, web soil survey with hydric soil ratings and other supporting information.*

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

Photographs: *Photographs included with the delineation report and additional information; Google Earth; ESRI*

Corps Site visit(s) conducted on: *July 2020*

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

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 and 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 independent 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.

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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- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: USDA/NRCS Web Soil Survey – Accessed January 14, 2021
- USFWS NWI maps: USFWS Wetland Mapper – Accessed January 14, 2021
- USGS topographic maps: USGS Clarence Center Quad-Delineated parcel located

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	ORM Maps – Accessed January 14, 2021
State/Local/Tribal Sources	NYSDEC Freshwater Wetland Maps – no State regulated wetlands are within the vicinity of the delineated parcel – Accessed January 14, 2021
Other Sources	N/A.

- B. Typical year assessment(s):** N/A
- C. Additional comments to support AJD:** N/A

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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