



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): 1/29/2021

ORM Number: LRB-2020-01459

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Syracuse County/Parish/Borough: Onondaga County

Center Coordinates of Review Area: Latitude 43.0793 Longitude -76.1756

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 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.



U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

| Exclusion Name | Exclusion Size | Exclusion ⁵ | Rationale for Exclusion Determination |
|----------------|----------------|-----------------------------|--|
| Wetland A | 0.35 acres | (b)(1) Non-adjacent wetland | <p>The site is largely developed, with several buildings and a perimeter road. Wetland 1 is a 0.35-acre PEM depressional wetland, located within the perimeter road. There are no culverts under the road connecting the wetland to any other waters. It is located over 1300 linear feet to the nearest USGS and NHD mapped stream located off site to the east. There is no hydrologic connection between the wetland and streams. There are no obvious man-made berms or other obstructions between the wetland and the creeks. There is no indication that any a(1)-a(3) water inundates the wetland in a typical year.</p> <p>This wetland is mapped within Urban soils, with a hydric indicator of 10, suggesting that the site has been modified in the past.</p> <p>The wetland is mapped In Zone X of the FEMA floodplain map, noting it is in an area of 0.2% annual chance flood; areas of 1% annual chance flood with average depths of less than 1 foot.</p> <p>Based on the above information, the wetland does not abut an (a)(1) through (a)(3) water, nor is the wetland inundated by flooding by an (a)(1) through a(3) water in a typical year, is not separated from an (a)(1) through (a)(3) water via a natural berm or barrier, and is not separated from an a(1) – a(3) water via an artificial structure/feature which allows water exchange at least once in a typical year.</p> |
| Wetland C | 0.45 acres | (b)(1) Non-adjacent wetland | <p>The site is largely developed, with several buildings and a perimeter road. Wetland C is a 0.45 acre PEM wetland. It is located approximately 1300 linear feet to the nearest USGS and NHD mapped stream located off site to the east.</p> <p>As seen during the site inspection, it appears that wetland C is largely created by a historical outlet pipe from the abandoned buildings on site. This can be seen in the aerial photographs as a green open water area. This suggests that Wetland C was created from an artificial outfall.</p> <p>Wetland C continued off site onto the I-81 right-of-way into what appears to be a linear wetland, but was likely a constructed roadside ditch. This ditch continues south, and then east under I-81. While it appears that this ditch flows into Ley Creek, there is no indicating that this ditch was a relocated tributary or was constructed in a tributary. It also does not appear that</p> |

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 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.



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

| | | | |
|-----------|------------|-----------------------------|---|
| | | | <p>this ditch along I-81 was constructed in an adjacent wetland, largely because Wetland C appears to have been created by the outflow on site.</p> <p>Because of this determination, it was not necessary to determine the flow regime of the ditch, as it is already an excluded water.</p> <p>This wetland (and the ditch all the way to Ley Creek) is mapped within Urban soils, with a hydric indicator of 10, suggesting that the site has been modified in the past. The wetland is mapped In Zone AE of the FEMA floodplain map, subject to inundation by 1% annual chance flood. Despite this, using the APT, there is no indication that any a(1)-a(3) water inundates the wetland in a typical year. In addition, this wetland does not appear to be physically separated from an (a)(1)-(a)(3) water only by a natural berm, bank, dune, or similar natural feature.</p> |
| Wetland D | 0.26 acres | (b)(1) Non-adjacent wetland | <p>The site is largely developed, with several buildings and a perimeter road. Wetland D is a 0.26 acre PFO wetland. It is located approximately 1300 linear feet to the nearest USGS and NHD mapped stream located off site to the east. Wetlands C and D were not connected, and there did not appear to be any ditch connecting them off-site on the I-81 right-of-way. Wetland D appeared to be connected to a roadside ditch to the north onto the I-81 right away into what appears to be a linear wetland, but was likely a constructed roadside ditch. There is no indication that this ditch was a relocated tributary or was constructed in a tributary. It also does not appear that this ditch along I-81 was constructed in an adjacent wetland. It is unclear where the ditch to the north flows, but this information is not relevant as the wetland is excluded since the ditch would also be an excluded water.</p> <p>Because of this determination, it was not necessary to determine the flow regime of the ditch.</p> <p>This wetland (and the ditch to the north) is mapped within Urban soils, with a hydric indicator of 10, suggesting that the site has been modified in the past. The wetland is mapped In Zone AE of the FEMA floodplain map, subject to inundation by 1% annual chance flood. Despite this, using the APT, there is no indication that any a(1)-a(3) water inundates the wetland in a typical year. In addition, this wetland does not appear to be physically separated from an (a)(1)-(a)(3) water only by a natural berm, bank, dune, or similar natural feature.</p> |

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 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

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, prepared by Delta Engineers, dated October 23, 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: *on-site photos contained in wetland delineation report; and aerial photos from 10/10/2019; 4/13/2017; 3/31/06*
- Corps Site visit(s) conducted on: *12/11/2020*
- 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: *Onondaga County Soil Survey, provided in delineation report, as well as the web soil survey, accessed on 1/27/2020*
- USFWS NWI maps: *Syracuse West Quad. www.fws.gov/nwi*
- USGS topographic maps: *Syracuse West Quad*

Other data sources used to aid in this determination:

| Data Source (select) | Name and/or date and other relevant information |
|----------------------------|--|
| USGS Sources | NHD |
| USDA Sources | N/A. |
| NOAA Sources | N/A. |
| USACE Sources | Maps and information available in the ORM database |
| State/Local/Tribal Sources | NYSDEC Environmental Resource Mapper |
| Other Sources | FEMA mapping |

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.

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.

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 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

The attached table summarizes the APT results for each aerial photograph reviewed and three site visits by the consultant. This information is referenced above.

| Latitude | Longitude | Date | Season | ARC Score | Antecedent Precip Condition |
|----------|-----------|------------|------------|-----------|-----------------------------|
| 43.0793 | -76.1756 | 12/11/2020 | Wet Season | 8 | Drier than Normal |
| 43.0793 | -76.1756 | 10/10/2019 | Wet Season | 15 | Wetter than Normal |
| 43.0793 | -76.1756 | 4/13/2017 | Wet Season | 18 | Wetter than Normal |
| 43.0793 | -76.1756 | 3/31/2006 | Wet Season | 10 | Normal Conditions |
| 43.0793 | -76.1756 | 8/20/2020 | Dry Season | 13 | Normal Conditions |

This information above supports that there is no indication that any a(1)-a(3) water inundates any of the wetlands in a typical year, as the Google Earth Pro photos from 10/10/2019 and 4/13/2017 were taken during wetter than normal conditions and during the wet season, and there is no indication that Ley Creek, which appears to be the nearest a(1)-a(3) water, inundates the wetlands.

C. Additional comments to support AJD: 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 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.