



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): 22 January 2021

ORM Number: LRB-2020-01587

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: County/Parish/Borough: Monroe County

Center Coordinates of Review Area: Latitude 43.153759 Longitude -77.750138

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stormwater Pond 1	1.5 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	This stormwater pond was constructed in uplands between 1980 and 1993. The 1983 photo shows no indication of any wetlands or other waters, nor do any previous aerial photos of the site.
Stormwater Pond 2	1.5 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	This stormwater pond was constructed in uplands between 1980 and 1993. The 1983 photo shows no indication of any wetlands or other waters, nor do any previous aerial photos of the site.
Wetland A	0.24 acres	(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)	This drainage ditch was constructed in association with the two stormwater ponds on site and conveys overflow away from the site. The ditch was constructed in uplands, as there is no indication of any wetlands or other waters on the site prior to the construction of these features.
Wetland B	1.48 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	This stormwater pond was constructed in uplands between 1980 and 1993. The 1983 photo shows no indication of any wetlands or other waters, nor do any previous aerial photos of the site.
Wetland C	0.22 acres	(b)(1) Non-adjacent wetland	Wetland C is a small, depressional, forested wetland located in the southwestern portion of the site. It is near Wetland A (drainage ditch), but does not touch it. The nearest a(1-3) water is an unnamed tributary to Little Black Creek, which is approximately 3000 feet from the project site. The site is separated from the tributary by a roadway and utility corridor. There are also residential homes between the tributary and the site. The mapped soil component is Niagara silt loam, which has a flooding frequency of 0 (none), indicating that flooding is not expected in a typical year. Based upon a review of the submitted information, the wetland does not abut an a(1-3) water, is not inundated by an a(1-3) water in a typical year, is not separated from an a(1-3) water by a natural barrier and is not separated from an a(1-3) water by a man made barrier that allows for water exchange in a typical year.
Wetland Y	0.42 acres	(b)(1) Non-adjacent wetland	Wetland Y is a small, depressional, forested wetland located in the southwestern portion of the site. It is near Wetland A (drainage ditch), but does not touch it. The nearest a(1-3) water is an unnamed tributary to Little Black Creek, which is approximately 3000 feet from the project site. The site is separated from the tributary by a roadway and utility corridor. There are also residential homes between the tributary and the

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			<p>site. The mapped soil component is Niagara silt loam, which has a flooding frequency of 0 (none), indicating that flooding is not expected in a typical year.</p> <p>Based upon a review of the submitted information, the wetland does not abut an a(1-3) water, is not inundated by an a(1-3) water in a typical year, is not separated from an a(1-3) water by a natural barrier and is not separated from an a(1-3) water by a man made barrier that allows for water exchange in a typical year.</p>
Wetland Z	0.007 acres	(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)	This drainage ditch was constructed in association with the two stormwater ponds on site and conveys overflow away from the site. The ditch was constructed in uplands, as there is no indication of any wetlands or other waters on the site prior to the construction of these features.

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: *Title(s) and date(s)*.

This information *is* sufficient for purposes of this AJD.

Rationale: *The information supplied by the applicant includes both the wetland delineation and historic aerial photographs indicating that the stormwater features and ditches were excavated in upland areas and not in waters of the US.*

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

Photographs: *(historic aerial photographs) 1931, 1951, 1969, 1980, 1994, 2003, and 2017.*

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

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: *Web soil survey, accessed 22 JAN 2021*

USFWS NWI maps: *Title(s) and/or date(s)*.

USGS topographic maps: *Title(s) and/or date(s)*.

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	
NOAA Sources	N/A.
USACE Sources	ORM USGS Map
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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- B. Typical year assessment(s):** N/A. No point in time resources were relied upon for this JD. Sufficient information was provided based upon the submitted delineation and historic aerial photographs.
- C. Additional comments to support AJD:** N/A

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