



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): 01-FEB-2021

ORM Number: LRB-2019-01612

Associated JDs: A PJD was performed for the remainder of the waters on site, dated April 16, 2020
Review Area Location¹:

State/Territory: NY City: York County/Parish/Borough: Livingston County
Center Coordinates of Review Area: Latitude 42.87485 Longitude -77.87708

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

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.



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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
Stream 2	477 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream 2 is an ephemeral stream, with a stream bed of stone and highly incised banks, connecting Wetland 4 to Browns Creek that was observed during the wetland delineation. The USGS maps show no evidence of a stream in this location.

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 and Waterbodies Delineation Report for OYA Solar - Main Street Updated Report Dated August 18, 2020
This information is sufficient for purposes of this AJD.
Rationale: Wetland delineation was submitted with 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: (*NA, aerial, other, aerial and other*) *Title(s) and/or date(s)*. provided in the delineation report, serial photos of various years and site photos
- ___ 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: *Title(s) and/or date(s)*. Livingston County
- ___ USFWS NWI maps: *Title(s) and/or date(s)*.
- ___ USGS topographic maps: *Title(s) and/or date(s)*. Livingston County

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): 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

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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.

An APT evaluation was run, associated with wetland delineation in 2020.

Inputs/Data Sources:

Latitude(s)/Longitude(s): 42.87485, -77.87708

Observation Date(s): August 18, 2020

Geographic Area(s) (Scope): HUC 12 watershed

Weather Station(s): Avon, Avon 0.5 NNE, Pavilion 2NE, LeRoy 1E, and Mt. Morris 2W

Result(s):

APT: normal conditions

PDSI: incipient drought

WebWIMP: dry season

Conclusion: Results of the APT evaluation indicate that the site visit was conducted during the dry season and under normal conditions. Considering normal conditions were present when the onsite observations were made, it has been concluded this stream is ephemeral during a typical year and thus excluded from jurisdiction.

- C. Additional comments to support AJD:** A PJD was performed for the remainder of the waters on site, dated April 16, 2020.

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