



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): February 3, 2021

ORM Number: LRB-2020-00449

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Bainbridge County: Chenango County

Center Coordinates of Review Area: Latitude 42.285415 Longitude -75.49606

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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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.

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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
Pond	0.27 acres	(b)(1) Lake/pond or impoundment that does not contribute surface water flow directly or indirectly to an (a)(1) water and is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year	<p>The delineated pond is located within Wetland B, the pond was likely excavated in a wetland between 2011 and 2015 based on aerial photography. During the consultants visit on May 11, 2019 and a USACE site visit on June 25, 2020, there was no evidence of a surface water connection to an a(1)-a(3) water, and aerial photography does not show a surface water connection to a (a)(1)-a(3) water. The pond does not show any sign of inundation and the nearest potential a(1)-(a)3 water is at least 200 feet away and water would need to flood beyond any known flood occurrence to inundate the pond.</p> <p>All resources reviewed support the determination that the pond has a lack of a surface water connection between the pond and an a(1)-a(3) water and the pond is not inundated in a typical year by an a(1)-a(3) water.</p>
Wetland 1	0.29 acres	(b)(1) Non-adjacent wetland	<p>Wetland 1 does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is an unnamed tributary to the Susquehanna River to the south of the review area, this tributary is more than 900 feet from Wetland 1. Wetland 1 extends to the west of the review area, but during a site visit conducted by the Corps of Engineers on June 25, 2020 the Corps confirmed that the upland extends around the entire wetland just off-site and Wetland 1 is a depressional feature with upland on all sides.</p> <p>Wetland 1 is not inundated by any a(1)-a(3) water during a typical year. The unnamed tributary to the Susquehanna River would need to flood beyond any known flood occurrence to inundate Wetland 1 at any time. There is no evidence of Wetland 1 being inundated during any year by any water.</p> <p>Wetland 1 is not separated from an adjacent water by a natural berm or feature. Wetland 1 is a depressional feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.</p> <p>Wetland 1 is separated from the nearest a(1-3) water by more than 900 feet, which includes uplands, farm roads, and other man made features.</p> <p>All resources reviewed support the determination that Wetland 1 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a</p>

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			<p>natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.</p>
Wetland 2A	0.27 acres	(b)(1) Non-adjacent wetland	<p>Wetland 2A, 2B, and 2C are one wetland complex with different cover types. The pond is also located within this complex and surrounded by Wetland 2B. The rationale for Wetland 2A, 2B, and 2C is consolidated below as Wetland 2.</p> <p>Wetland 2 does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is an unnamed tributary to the Susquehanna River. This tributary is evident on USGS topographical maps starting approximately 700 feet directly Southwest of Wetland 2, but based on aerial photography, the stream channel continues up the draw that it is located in and is potentially as close as 200 feet from the wetland complex. The Corps of Engineers conducted a site visit on June 25, 2020 and walked the boundaries of Wetland 2. Wetland 2 does not extend to the stream channel. No stream channel was located during the site visit and the boundary of the wetland stopped north of the channel location that is visible on aerial photographs.</p> <p>Wetland 2 is not inundated by any a(1)-a(3) water during a typical year. The nearest potential a(1)-a(3) water would need to flood beyond any known flood occurrence to inundate Wetland 2 at any time. There is no evidence of Wetland A being inundated during any year by any water.</p> <p>Wetland 2 is not separated from an adjacent water by a natural berm or feature. Wetland A is a depressional feature primarily located within a utility line right of way. Based on the site visit there is no evidence of a natural berm or feature separating Wetland 2 from a jurisdictional waterway.</p> <p>Wetland 2 is not separated from potential adjacent waters by manmade features, but it is separated from potential a(1)-a(3) waters by upland with no engineered outlet to a potential a(1)-a(3) water.</p> <p>All resources reviewed support the determination that Wetland 2 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.</p>

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Wetland 2B	1.76 acres	(b)(1) Non-adjacent wetland	Wetland 2A, 2B, and 2C are one wetland with different cover types. The pond is also located within this complex and surrounded by Wetland 2B. See Wetland 2A for rationale for the entire wetland complex.
Wetland 2C	1.11 acres	(b)(1) Non-adjacent wetland	Wetland 2A, 2B, and 2C are one wetland with different cover types. The pond is also located within this complex and surrounded by Wetland 2B. See Wetland 2A for rationale for the entire wetland complex.
Wetland 3	0.61 acres	(b)(1) Non-adjacent wetland	<p>Wetland 3 does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is an unnamed tributary to the Susquehanna River to the south of the review area, this tributary is more than 1,500 feet from Wetland 3. Wetland 3 is a depressional feature surrounded by upland and the boundaries were confirmed by the Corps of Engineers on June 25, 2020.</p> <p>Wetland 3 is not inundated by any a(1)-a(3) water during a typical year. The unnamed tributary to the Susquehanna River would need to flood beyond any known flood occurrence to inundate Wetland 1 at any time. There is no evidence of Wetland 3 being inundated during any year by any water.</p> <p>Wetland 3 is not separated from an adjacent water by a natural berm or feature. Wetland 3 is a depressional feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.</p> <p>Wetland 3 is separated from the nearest a(1-3) water by more than 1,500 feet, which includes uplands, farm roads, and other man made features.</p> <p>All resources reviewed support the determination that Wetland 3 does not directly abut any a(1)-a(3) waters, is not inundated by any a(1)-a(3) waters in a typical year, is not separated from any a(1)-a(3) waters by a natural barrier, and is not separated from any a(1)-a(3) waters by a man-made barrier which has an engineered feature that allows water exchange at least once in a typical year.</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 and Stream Delineation Report: Jennison Substation Project Bainbridge New York prepared by LaBella Associates, D.P.C. dated January 2020.*

This information *is and is not* sufficient for purposes of this AJD.

Rationale: *The information provided refers to previous regulations to determine if a waterway is jurisdictional or not. The information was reviewed under the Navigable Waters Protection Rule, which required additional information on the history of the site.*

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

Photographs: *Google Earth Pro Aerial Photos dated: 3/31/2006; 5/13/2015; 10/2/2017. Connect Explorer Oblique Photos dated: 4/23/2017; 4/28/2017; 4/20/20.*

Corps Site visit conducted on: *6/25/2020*

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: *Online NRCS Soil Mapper accessed 2/2/2021 from <https://websoilsurvey.sc.egov.usda.gov/app/WebSoilSurvey.aspx>*

USFWS NWI maps: *Online USFWS NWI mapper accessed 2/2/2021 from <https://www.fws.gov/wetlands/data/Mapper.html>*

USGS topographic maps: *USGS 1:24K, Sidney Quad.*

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): Although several point-in-time resources were evaluated for this review, they were not needed to determine whether inundation occurred from an a(1-3) water into onsite wetlands. Aerial photos were used to evaluate potential a(1)-a(3) waters adjacency and the lack of adjacency to any wetland was confirmed during a site visit conducted by the Corps of Engineers. These determinations did not require a typical year assessment.

C. Additional comments to support AJD: N/A.

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