



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): 4/21/2021  
ORM Number: LRB-2020-01034  
Associated JDs: N/A

State/Territory: NY City: Webster County/Parish/Borough: Monroe County  
Center Coordinates of Review Area: Latitude 43.219966 Longitude -77.455154

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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
Wetland 3	0.46 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 3 extends off the project site to the east, based upon NWI maps and aerial photography, where it abuts

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

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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			an a(2) tributary.
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**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Wetland 1	0.03 acres	(b)(1) Non-adjacent wetland	<p>Wetland 1 is a small, depressional water bordered by upland to the east and man made features to the north, west and south. The nearest a(2) water is approximately 650 linear feet. The soil survey mapping indicates the area has an expected flooding frequency of none.</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, 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.</p>
Wetland 2	1.71 acres	(b)(1) Non-adjacent wetland	<p>Wetland 2 is a forested wetland that is bisected by a roadway with a culverted crossing. The wetland is bounded to the north by upland and by manmade development on all other sides. The nearest a(2) water is at least 1000 feet away. The wetland is separated from the nearest a(2) water by multiple roads and structures. The soil survey mapping indicates the area has an expected flooding frequency of none.</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, 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.</p>

**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.

  X   Information submitted by, or on behalf of, the applicant/consultant: *Wetland Delineation Report, Webster Central School, LaBella Associates, September 2017, revised delineation map November 2020.*

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

Rationale: *The original wetland delineation from 2017 was never field verified by the Corps in 2017. When the field verification occurred in 2020, additional work had occurred in areas within the delineated footprint, but outside for the parcel boundaries. This additional work was conducted by others, and therefore additional resources were needed to determine with the additional work was conducted in waters and if so, whether or not the work would have*

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*served to sever jurisdiction in accordance with the Navigable Waters Protection Rule..*

- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *(NA, aerial, other, aerial and other) Multiple Google Earth images from 2015-2019.*
- 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)*.
- 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	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):** No typical year assessment was completed for the work. Wetlands 1 and 2 are separated from the nearest a(2) water by multiple man made barriers and substantial distance, and Wetland 3 abuts an a(2) water.
- C. Additional comments to support AJD:** As indicated above, between the time that the initial wetland delineation was performed and the time of the Corps 2020 site visit, substantial work had been completed by others to the south of the subject parcel. Based on the 2017 delineation, it was possible that this work could have occurred in waters of the US. The Corps pursued an investigation of the work to the south to determine if a wetland delineation had been performed prior to the additional work. Ultimately, a delineation was located for this work. The delineation had not been submitted to the Corps, but work had avoided wetlands identified by this delineation. Based on the data in the delineation, there was insufficient evidence to suggest that Wetland 2 extended off site and continued to an a(1)-a(3) water, nor was there any evidence that the wetland would have been inundated by an a(1)-a(3) water. The distance between Wetland 2 and the nearest a(1)-a(3) water would have been too great to be considered a natural barrier or an artificial barrier.

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