



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): 20-APR-2021

ORM Number: LRB-2020-01137

Associated JDs: N/A

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 43.2213 Longitude -77.442

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.

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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
Tributary A	160 feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Tributary A is a 160-foot-long drainage ditch with no bed and banks, and no ordinary high water mark. Tributary A was constructed in order to drain water from Orchard Road drainage ditch running on the south side of the road and created subdivision to the north during precipitation events. The Tributary A ditch is located over 1,000 linear feet east from the nearest a(1)-a(3) water (unnamed tributary to Mill Creek). Review of the topographic maps did not show any streams mapped in this location. Based on the review of available resources, no evidence was found that Tributary A was created to reroute a naturally existing tributary or was constructed in an adjacent wetland.
Wetland A	0.67 acres	(b)(1) Non-adjacent wetland	Wetland A is a 0.67 acre PFO wetland, located in the northcentral part of the property, with no connection to an a(1)-a(3) water. Wetland A is located over 900 feet east of an a(1)-a(3) water (unnamed tributary to Mill Creek). The wetland is separated by undeveloped land, pond drainage ditch and a trail path from the a(1)-a(3) water. Based upon the soil classification in the USDA Web Soil Survey, the wetland has a nearly zero percent chance of flooding in any year. Review of the historical aerials did not show any inundation throughout the year by an a(1)-a(3) water. All resources reviewed and site visit support the determination that Wetland A does not abut an a(1)-a(3) water, is not inundated by flooding by an a(1)-a(3) water at least once a typical year, is not separated from an a(1)-a(3) water by a natural berm or barrier and is not separated from an a(1)-a(3) water by a man made barrier which contains a feature that allows flow exchange in a typical year.

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 named “Federal Wetland Delineation Report for Orchard Road Property” conducted by BME Associates and submitted in August of 2020 with accurate, complete data sheets, and photographs.

This information is sufficient for purposes of this AJD.

Rationale: N/A.

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

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- Photographs: (NA, aerial, other, aerial and other) Google Earth Pro (2021), ESRI, Eagleview (2010, 2012, 2015, 2018, 2020)
- Corps Site visit(s) conducted on: 09/16/2020.
- 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: Web soil survey reviewed.
- USFWS NWI maps: USFWS online map reviewed.
- USGS topographic maps: Webster, New York Quad; 24k:1.

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	ORM2.
State/Local/Tribal Sources	NYS DEC on-line Environmental Resource Map reviewed.
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 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.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
43.2213	-77.442	9/16/2020	-1.36	Mild drought	Dry Season	13	Normal Conditions
43.2213	-77.442	4/21/2018	3.58	Severe wetness	Wet Season	15	Wetter than Normal
43.2213	-77.442	4/15/2015	-1.25	Mild drought	Wet Season	10	Normal Conditions
43.2213	-77.442	11/9/2012	0.13	Normal	Wet Season	18	Wetter than Normal
43.2213	-77.442	11/12/2010	2.27	Moderate wetness	Wet Season	11	Normal Conditions

Evaluation of aerial photographs, delineation report and results from the APT indicate that no signs of inundation of the wetlands from a tributary occurred. Two of the years evaluated had wetter than normal conditions and three were under normal conditions, and there was no inundation visible. As noted above, the nearest tributary is over 1,000 feet from the closest delineated wetland.

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C. Additional comments to support AJD: N/A or provide additional discussion as appropriate.

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