



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): 21-APR-2021
ORM Number: LRB-2020-01615 (Fritschi, Stephen)
Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)
Review Area Location¹:
State/Territory: NY City: Grand Island County: Erie County
Center Coordinates of Review Area: Latitude 43.04177 Longitude -78.90283

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
W2	0.16 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 2, 0.16 acres, is a PFO/PSS located in the West portion of the delineated parcel. According to the

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

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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.

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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			consultant, the wetland continues offsite to the West and is part of a larger wetland complex. A review of NYSDEC Environmental Resource Mapper, USFWS Wetland Mapper and Aerial Imagery, the wetland continues offsite and directly abuts Woods Creek, classified as perennial streams or A(2) waters. In addition, two NYS regulated wetlands, TW-7 (72 acres) and TW-5 (27 acres) are adjacent to the delineated parcel to the West. A review of in-house resources indicates the wetland continues offsite and directly abuts an A(2) waters.
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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
W1	0.14 acres	(b)(1) Non-adjacent wetland	A review of the NRCS/Web Soil survey indicates the soils are mapped hydric and potential hydric soils. However, the data sheets submitted by EDI indicates a majority of the site to be non-hydric soils. Also, the delineation indicated the parcel has a mix of non-hydric and hydroptic vegetation. A review of aerial imagery and other in-house resources show no drainage patterns coming or going from Wetland 1. A review of aerial imagery, Eagle Eye Viewer and Google Earth, indicate no A(1)-A(3) waters or other drainageways directly abutting or adjacent to Wetland 1. The USGS Quad (Tonawanda West), USFWS Wetland mapper and NYSDEC Environmental Resource Mapper indicate no streams within the vicinity of the delineated parcel or Wetland 1. Woods Creek, possible A(2) water was identified on the USGS Quad and NYSDEC Environmental Resource Mapper approximately more than 1,000 linear feet to the West of Wetland 1. The wetland is a shallow surface concave depression that collects water and holds it long enough to provide wetland characteristics but does not drain to A (1) – A(3) waters. No natural or artificial barriers between Wetland 1 and A(1) – A(3) waters were found during an in-house review of available resources or indicated in the delineation report. It appears the wetland is not inundated by an A(1) – A(3) waters. Also, the NRCS/USDA Web Soil Survey "Flood Frequency Class" rating is "none" which means, "flooding is not probable. The chance of flooding is nearly 0 percent in any year". All resources reviewed support the determination that Wetland 1 doesn't directly abut an A(1)-A(3) waters, is not separated from an A(1)-A(3) waters by a natural or man-made feature and is not adjacent to an A(1)-A(3) waters.

III. SUPPORTING INFORMATION

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

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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: Delineation sheets and figures submitted on behalf of Stephen Fritschi by EDI.
This information is sufficient for purposes of this AJD.
Rationale: *N/A.*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: Photos included with the delineation package.
- 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: *USDA/NRCS Web Soil Survey (Accessed April 22, 2021).*
- USFWS NWI maps: *USFWS Wetland Mapper (Accessed April 22, 2021)*
- USGS topographic maps: *USGS Tonawanda West 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):** *N/A*
- C. Additional comments to support AJD:** *N/A*

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