



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): June 22, 2021

ORM Number: LRB-2020-01401

Associated JDs: Associated Preliminary JD for additional waters.

Review Area Location¹:

State/Territory: NY City: Vienna County: Oneida County

Center Coordinates of Review Area: Latitude 43.228459 Longitude -75.859194

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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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 C	300 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Stream C is an ephemeral feature. The ephemeral nature of the feature was determined by evaluation of historic aerial photographs, photographs taken at the time of the delineation, and on-site observations by the delineator indicating that water only flows through the ephemeral feature after rainfall events and snow melt. The channel has a bedrock bottom, steep slope, is contained in a draw that only allows for water to drain quickly to Oneida Lake. Other than the shallow concave channel within the draw, no obvious indication of flow was observed during the delineation, multiple visits by the delineator during multiple seasons or on aerial photos. The Antecedent Precipitation Tool (APT) was run for four dates corresponding to four aerial photographs and four site visits by the consultant (see Section III.B. for more information on the APT and specific dates). Based on the APT results, all but one of the dates were during normal conditions or wetter than normal conditions. In all aerial photographs reviewed, a stream channel can be identified in all the reviewed photos, but they are unclear if water is contained within the stream to include photos taken during wetter than normal conditions. During the consultants four site visits, in May 2019, July 2019, August 2020, and April 2020, the consultant only encountered water during the May 2019 site visit during wetter than normal conditions and stated that the channel was completely dry in each subsequent site visit, spanning multiple seasons and occurring during wetter than normal conditions, normal conditions, and drier than normal conditions. Based on this information, Stream C only conveys water after rainfall events and snow melt during a typical year.
Wetland E	0.06 acres	(b)(1) Non-adjacent wetland	Wetland E does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is Stream B, more than 50 feet from Wetland E. Wetland E is not inundated by any a(1)-a(3) water during a typical year. Stream B would need to rise more at least five feet in elevation to inundate Wetland E at any time based on contour maps with two foot contours. There is no evidence of Wetland E being inundated during any year by any water. Wetland E is not separated from an adjacent water by a natural berm or feature. Wetland E is a depressional feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.

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			<p>Wetland E is separated from the nearest a(1) – a(3) water by uplands with no engineered features that allow water exchange once in a typical year.</p> <p>All resources reviewed support the determination that Wetland E 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>
Wetland F	0.04 acres	(b)(1) Non-adjacent wetland	<p>Wetland F does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is Stream B, more than 100 feet from Wetland F.</p> <p>Wetland F is not inundated by any a(1)-a(3) water during a typical year. Stream B would need to rise more at least five feet in elevation to inundate Wetland F at any time based on contour maps with two foot contours. There is no evidence of Wetland F being inundated during any year by any water.</p> <p>Wetland F is not separated from an adjacent water by a natural berm or feature. Wetland F is a depressional feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.</p> <p>Wetland F is separated from the nearest a(1) – a(3) water by uplands with no engineered features that allow water exchange once in a typical year.</p> <p>All resources reviewed support the determination that Wetland F 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>
Wetland G	0.1 acres	(b)(1) Non-adjacent wetland	<p>Wetland G does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is Stream B, more than 100 feet from Wetland G.</p> <p>Wetland G is not inundated by any a(1)-a(3) water during a typical year. Stream B would need to rise more at least five feet in elevation to inundate Wetland G at any time based on contour maps with two foot contours. There is no evidence of Wetland G being inundated during any year by any water.</p> <p>Wetland G is not separated from an adjacent water by a natural berm or feature. Wetland G is a depressional</p>

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			<p>feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.</p> <p>Wetland G is separated from the nearest a(1) – a(3) water by uplands with no engineered features that allow water exchange once in a typical year.</p> <p>All resources reviewed support the determination that Wetland G 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>
Wetland H	0.22 acres	(b)(1) Non-adjacent wetland	<p>Wetland H does not abut any (a)(1)-(a)(3) water. The nearest potential (a)(1)-(a)(3) water is Stream B, more than 400 feet from Wetland H.</p> <p>Wetland H is not inundated by any a(1)-a(3) water during a typical year. Stream B would need to rise more than five feet in elevation to inundate Wetland H at any time based on contour maps with two foot contours. There is no evidence of Wetland H being inundated during any year by any water.</p> <p>Wetland H is not separated from an adjacent water by a natural berm or feature. Wetland H is a depressional feature surrounded by upland with no natural berm or feature that separates it from an adjacent water.</p> <p>Wetland H is separated from the nearest a(1) – a(3) water by uplands with no engineered features that allow water exchange once in a typical year.</p> <p>All resources reviewed support the determination that Wetland H 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: *Pre-Jurisdictional Delineation Report for the Route 49 Property, submitted by Plumley Engineering, dated October 2020.* This information is sufficient for purposes of this AJD. Rationale: *N/A*
- Data sheets prepared by the Corps: *N/A*
- Photographs: *Aerial Photos Google Earth Pro dated: 10/10/2019; 4/13/2017; 5/28/2015; 3/20/2009. ConnectExplorer Oblique photos dated: 4/24/2017; 4/29/2015; 4/29/2017; 11/12/2011; 11/25/2011. Photos provided by the consultant in the delineation report taken 5/19/2019 and 7/28/2019*
- 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: *Online NRCS Soil Mapper accessed 3/22/2021 from <https://websoilsurvey.sc.egov.usda.gov/app/WebSoilSurvey.aspx>*
- USFWS NWI maps: *Online USFWS NWI mapper accessed 3/22/2021 from <https://www.fws.gov/wetlands/data/Mapper.html>*
- USGS topographic maps: *USGS 1:24K, Jewell Quad 1941 edition and 2019 edition.*

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 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.

The attached table summarizes the APT results for four aerial photographs reviewed and four site visits by the consultant. This information is referenced above.

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Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
43.2266	-75.8561	3/20/2009	1.6	Mild wetness	Wet Season	13	Normal Conditions
43.2266	-75.8561	4/13/2017	1.46	Mild wetness	Wet Season	16	Wetter than Normal
43.2266	-75.8561	4/24/2017	1.46	Mild wetness	Wet Season	18	Wetter than Normal
43.2266	-75.8561	4/29/2017	1.46	Mild wetness	Wet Season	18	Wetter than Normal
43.2266	-75.8561	5/29/2019	3.95	Severe wetness	Wet Season	16	Wetter than Normal
43.2266	-75.8561	7/28/2019	4.05	Extreme wetness	Dry Season	16	Wetter than Normal
43.2266	-75.8561	8/20/2020	-0.56	Incipient drought	Wet Season	11	Normal Conditions
43.2266	-75.8561	4/14/2021	-2.27	Moderate drought	Wet Season	7	Drier than Normal

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

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