



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 10, 2021

ORM Number: LRB-2021-00489

Associated JDs: N/A

Review Area Location<sup>1</sup>:

State/Territory: NY City: County/Parish/Borough: Onondaga County

Center Coordinates of Review Area: Latitude 43.127878 Longitude -76.122189

**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
N/A	N/A	N/A	N/A

<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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**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 B	0.49 acres	(b)(1) Non-adjacent wetland	<p>Wetland B is 0.49 acres on site and is part of a larger wetland that continues off-site. The wetland appears to abut a stream that starts just off site and flows to a ditch that runs along Interstate-81. At the time of the site inspection, the stream was not flowing, and portions had areas of inundation. Based upon the APT data noted below, this was during a wet season, but during a time of mild drought.</p> <p>Based upon the lack of any streams mapped within or near the project area on any historical resource (aerial photos, historic USGS maps, historic soils survey), it has been concluded that the stream that starts just off of the project site was likely a constructed ditch. If the ditch was not constructed within an adjacent wetland at the time, the ditch would not be jurisdictional. Based upon a review of in-house resources and historic data, it does not appear that this wetland abutted an a(1)-a(3) water, and therefore the ditch, even if intermittent, is not jurisdictional. The soils have a hydric rating of 7 and is largely surrounded by non-hydric soils.</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 in a typical year, 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 which allows water exchange at least once in a typical year.</p>
Wetland A	0.017 acres	(b)(1) Non-adjacent wetland	<p>Wetland A is a small wetland that receives hydrology from both wetland B, via culvert pipe connecting the two, as well as from the large ditch that runs along Interstate I-81.</p> <p>Based on the assessment of Wetland B, Wetland A also 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 in a typical year, 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 which allows water exchange at least once in a typical year.</p>

**III. SUPPORTING INFORMATION**

<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 or 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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

**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 Assessment Memorandum Dated April 6, 2021, by Barton and Loguidice*  
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: *On-site photos contained in Wetland Assessment; Google Earth Pro, multiple years, 4/13/2017, 3/31/2006, 4/1/2003, 3/26/1995*
- Corps Site visit(s) conducted on: *March 26, 2021*
- 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, accessed 4/26/2021; site is all mapped as Niagara silt loam, with a hydric rating of 7, and is surrounded primarily with non-hydric soils.*
- USFWS NWI maps: *Cicero Quad, 1:24K*
- USGS topographic maps: *1978 Brewerton and Cicero Quads, 1:24K; historic topographical maps, including 1895 and 1945*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrographic Dataset – no streams mapped within the forested complex
USDA Sources	Onondaga County Soils Survey, Sheet No. 17 (1966) (hard copy): no streams mapped within the forested complex
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	NYS Department of Environmental Conservation (NYSDEC) Environmental Resource Mapper – mapped as part of BRE-27. However, NYSDEC issued a permit for the work and identified it as upland adjacent area. Wetland BRE-27 is mapped as a confined wetland, with no streams flowing in, within or out of the wetland.
Other Sources	NYS Department of Transportation (NYSDOT): The Corps also reached out to NYSDOT to see if there was any additional information on flow paths of the large Phragmites dominated ditch along Interstate 81 where the wetlands abut. Based upon a compilation of plan sheets from the original construction of I-81, the water within this area is contained within the DOT ROW and flows south along the western site and then into the interchange next to Taft Road but not near a mapped stream. NYSDOT suggested that water MAY enter the I-81 ditch system from the back of the project site but the water would have to be pretty high in order to do so. Although it was raining on the day of the DOT inspection, the water was not flowing.

**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 70<sup>th</sup> and 30<sup>th</sup> percentiles for totals from the same date range over the preceding 30 years. The APT then makes a

<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 or 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.



U.S. ARMY CORPS OF ENGINEERS  
REGULATORY PROGRAM  
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)  
NAVIGABLE WATERS PROTECTION RULE

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 site visits and for the clearest aerial photographs reviewed. All dates examined were during the wet season. The first two dates are the Corps and consultant site inspections, respectively. During the Corps site visit, the stream was not flowing, but rather had a few areas with standing water. However, based upon the fact that it was a mild drought in the wet season, this data does not support the flow regime. Water appeared present in the channel at the time of the consultant’s site visit, which was during a drier time than normal but in a wet season. As noted above, it is anticipated that this is a constructed ditch.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
43.127878	-76.122189	4/26/2021	-1.74	Mild drought	Wet Season	6	Drier than Normal
43.127878	-76.122189	3/24/2021	-2.02	Moderate drought	Wet Season	9	Drier than Normal
43.127878	-76.122189	4/13/2017	2.66	Moderate wetness	Wet Season	18	Wetter than Normal
43.127878	-76.122189	3/31/2006	1.84	Mild wetness	Wet Season	10	Normal Conditions
43.127878	-76.122189	4/1/2003	0.13	Normal	Wet Season	13	Normal Conditions
43.127878	-76.122189	3/26/1995	-1.11	Mild drought	Wet Season	7	Drier than Normal

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

<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.