



**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): 7/12/2021
 ORM Number: LRB 2021-00068 DDS Companies – North Road Property
 Associated JDs: N/A or ORM numbers
 Review Area Location¹: State/Territory: New York City: Canandaigua County/Parish/Borough: Ontario
 Center Coordinates of Review Area: Latitude 42.908026 Longitude -77.283831

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 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.

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1/Ditch 2	1210	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditches 1 and 2 were constructed in upland areas and are the same ditch. Flow is in a north-northwesterly direction. The 1994 and 2005 Google Earth aerial photos suggest that the area labeled as Ditch 2 originates to the southeast near Chapel Street and a flow pattern to the north. This reach has ephemeral flow for approximately 370 linear feet where the channel meets the confluence of Ditches 3 and 4 (see below). From that point, intermittent flow was determined for approximately 840 linear feet where the channel is culverted under North Road and is currently culverted for an undetermined distance. The 2015 aerial suggests that there is a channel that daylights at some point and continues north east. Further, the topographic map shows the man-made channel continuing north from under North Road and entering a stream system to the northeast, which eventually enters the Canandaigua Outlet.
Ditch 3	480	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 3 was constructed in uplands and has a concrete bottom and carries stormwater runoff from the surrounding developed residential area. The channel is approximately 480 linear feet long and was determined to have ephemeral flow to the northeast where it empties to Ditch1/Ditch2 and is carried northwest off the site.
Ditch 4	420	linear feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 4 was also constructed in uplands and is approximately 420 linear feet long with ephemeral flow. The channel originates off site to the east and flows west onto the property to the confluence of the other ditches. Flow is carried northwest off the site via Ditch 1/Ditch 2.
		N/A.	N/A.	Based on the above information and observations, I have determined that these ditch features are excluded from jurisdiction under Section 404 of the Clean Water Act.

III. SUPPORTING INFORMATION

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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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: [BME Associates, received on January 21, 2021](#)
This information is sufficient for purposes of this AJD.
Rationale: [N/A](#)
- Data sheets prepared by the Corps: [N/A](#)
- Photographs: [Select. Submitted with the delineation report. Google Earth aerials dated 04/21/1994; 03/31/2005; 07/15/2015.](#)
- Corps site visit(s) conducted on: [June 30, 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [N/A](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [On-line Web Soil Survey; June 2021](#)
- USFWS NWI maps: [Canandaigua, New York Quad](#)
- USGS topographic maps: [Canandaigua, New York Quad](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	See III A. above
USDA Sources	See III A. above
NOAA Sources	N/A.
USACE Sources	See III A. above
State/Local/Tribal Sources	N/A.
Other Sources	See III A. above

B. Typical year assessment(s): N/A. Although several point-in-time resources were evaluated for this review, they were not needed to determine whether inundation occurred from an a(1-3) water into onsite wetlands because no wetland areas were identified on site. All features were determined to be man-made ditches carrying ephemeral flow and were excavated through upland areas. Aerial photos were used to evaluate historic conditions and these determinations did not require a typical year assessment.

C. Additional comments to support AJD: The site visit revealed that the linear channels had been excavated through upland areas decades ago. The channels range from 20-30 feet below the top of bank and rubble piles suggest that the property had been used for dumping and then graded into the pathways that have been mowed adjacent to the channels. Note that a substantial rain event had occurred on the day of the site visit, and there had been much rain earlier in the week.

The Web Soil Survey on-line map indicates that nearly the entire site is comprised of hydric soils identified as Lakemont silty clay loam, 0 to 3 percent slopes (34A), having a hydric soil rating of 95. However, on-site observations throughout the approximately 27-acre site do not suggest hydric conditions. Upland vegetation typical of early to mid-successional old field conditions were present. Although several days of rainy conditions prevailed prior to the site visit, there was no evidence of ponding or areas supporting hydric vegetation.



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Asphalt and concrete/rock rubble were evident along the graded pathways along the ditch areas. These areas were mowed, and it was evident that the elevation above the excavated channels was enhanced by rubble that had been graded flat.