



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): August 30, 2021  
ORM Number: LRB-2003-01896 (Sample, Douglas)

Associated JDs: A PJD dated 08/08/2019 was processed for the subject wetland (Wetland D) and also included Wetlands A, BC. An AJD was processed on 08/08/2019 for Wetlands E, F, G. Both documents are under the same ORM Number as this current document (2003-01896)

Review Area Location<sup>1</sup>: Phase II Chadham Estates Housing Development (Kelly Homes) Willinick Circle

State: NY                                      Town: Greece                                      County: Monroe  
Center Coordinates of Review Area:    Latitude 43.248655                                      Longitude -77.738299

**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):

<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.



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(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

**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
2003-01896 Wetland D	0.5 acres PFO	(b)(1) Non-adjacent wetland	<p>Wetland D is a depressional area located within one of the remaining undeveloped residential lots within the Phase II Chadham Homes subdivision. It is land-locked with remnant grading and rubble piles along the internal roadside.</p> <p>The USDA Web Soil Survey indicates Madrid fine sandy loam 0 to 3 percent slopes with a hydric rating of 0 and Massena fine sandy loam with a hydric rating of 66 mapped in the area in which Wetland D is located.</p> <p>The NWI map depicts the majority of the site as a PFO wetland. However, the surrounding area has been under development for residential homes, internal roads, infrastructure and utilities for at least two decades, obscuring evidence that might have suggested the presence of wetlands throughout area.</p> <p>Historic Google Earth photos suggest that construction began sometime between 2002 and 2005.</p>

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			<p>Using the distance tool from the ORM database, the distance from Wetland D to the nearest (a)(2) or (a)(3) stream is approximately 1300 feet south to an unnamed tributary to Smith Creek. There are various topographic, and man-made obstructions between the wetland and this stream, including residential development, roads, culverts, etc.</p> <p>Based on the above information, and observations made during the USACE site visit on August 19, 2021, it has been determined that the subject wetland does not abut an (a)(1), (a)(2) or (a)(3) water, nor is the wetland inundated by flooding by an (a)(1), (a)(2) or (a)(3) water in a typical year, is not separated from an (a)(1), (a)(2) or (a)(3) water via a natural berm or barrier, and is not separated from an (a)(1,) (a)(2) or (a)(3) water via an artificial structure/feature which allows water exchange at least once in a typical year.</p>
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<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.



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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:  
Applicant: Douglas Sample  
Consultant: BME Associates  
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:  
Aerial: Google Earth 1994; 2006; 2009; 2011; 2015; 2018  
Other: Photos taken during the delineation on 05/19/2019 contained in the 2019 delineation report.
  - Corps Site visit(s) conducted on 08/19/2021
  - Previous Jurisdictional Determinations: See Section IA above
  - Antecedent Precipitation Tool: provide detailed discussion in Section III.B
  - USDA NRCS Soil Survey: On-Line Web Soil Survey dated 05/05/20  
The following soils were identified in the location of Wetland D  
MdA Madrid fine sandy loam 0 to 3 percent slopes with a hydric rating of 0  
Mf Massena fine sandy loam with a hydric rating of 66
  - USFWS NWI maps: Rochester West, New York; 05/13/2019
  - USGS topographic maps: Rochester West, New York; 05/13/2019 (ORM Resource)

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

<b>Data Source (select)</b>	<b>Name and/or date and other relevant information</b>
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	Photographs: See III A above

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**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.

<b>Aerial Date</b>	<b>PDSI Value</b>	<b>PDSI Class</b>	<b>Season</b>	<b>ARC Score</b>	<b>APT Condition</b>
4/21/1994	1.89	Mild wetness	Wet Season	15	Wetter than Normal
6/4/2006	0.33	Normal	Dry Season	10	Normal Conditions
5/3/2009	2.3	Moderate wetness	Dry Season	10	Normal Conditions
5/9/2011	4.52	Extreme wetness	Dry Season	14	Normal Conditions
5/19/2015	-1.53	Mild drought	Dry Season	9	Drier than Normal
6/28/2018	1.91	Mild wetness	Dry Season	7	Drier than Normal
<b>Delineation Date:</b>					
5/19/2019	2.21	Moderate wetness	Dry Season	11	Normal Conditions
<b>USACE Site Visit Date:</b>					
8/19/2021	2.45	Moderate wetness	Dry Season	10	Normal Conditions

The APT summary associated with the above dates were calculated under various conditions with all but 1994 during the Dry Season. Development evolution of the site from pre-disturbance through 2018 is clearly depicted on the selected dates. None of the aerials or observations made during the 2019 delineation or subsequent 2021 USACE site visit suggests inundation of Wetland D from the unnamed tributary to Smith Creek which is approximately 1300 feet to the south. There are various topographic, and man-made obstructions between the wetland and this stream, including residential development, roads, culverts, and other infrastructure.

Based on the above information, the subject wetland does not abut an (a)(1), (a)(2) or (a)(3) water, nor is the wetland inundated by flooding by an (a)(1), (a)(2) or (a)(3) water in a typical year, is not separated from an (a)(1), (a)(2) or (a)(3) water via a natural berm or barrier, and is not separated from an (a)(1,) (a)(2) or (a)(3) water via an artificial structure/feature which allows water exchange at least once in a typical year.

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

Wetland D had been included in the 2019 PJD but an AJD is now requested to confirm the area as excluded under the NWRP in order to develop the parcel. The entire boundary was walked, including the off-site portion of the wetland, and it was confirmed that there are no downstream connections. Vegetation consisted primarily of sub-canopy trees with sparse herbaceous ground cover.

The subject wetland is a depressional area located within one of the remaining undeveloped residential lots within the Phase II Chadham Homes subdivision. It is land-locked and remnant grading and rubble piles are present adjacent to the internal residential road.

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