



**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): 8/4/2021
 ORM Number: LRB 2020-01562 (Aristo Custom Homes (Peters Property))
 Associated JDs: Note that a PJD was processed concurrently for several other aquatic resources on the parcel using the same ORM Identification Number as above.
 Review Area Location¹: State/Territory: New York City: Perinton County/Parish/Borough: Monroe
 Center Coordinates of Review Area: Latitude 43.1176 Longitude -77.4186

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
Stream -C1	310	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	<p>Historic Google Earth aerial photos, NWI map, and topographic map indicate that Stream C-1 originates from the wooded area to the north and continues south and transitions to intermittent flow (defined as Stream 1 and processed under a PJD) and continues to Furman Road where flow enters perennial Stream A (processed under a PJD).</p> <p>However, on-site observations confirmed that the upper reach of this feature from the culvert located nearly in the center of the reach (see map) north to the wooded area is a vegetated upland swale located in a low area between agricultural fields. Data collected indicate that wetland vegetation is supported, but hydric soils were not identified.</p> <p>Stream C-1 south of the culvert, exhibits a headcut and distinct bed and bank with areas of standing water throughout. No flow was observed, even considering there had been rain events for the two days previous to the site visit.</p> <p>The vegetated berm adjacent to the channel suggests sidecast material from past excavation/maintenance; however, based on the presence of large rocks and vegetation in the channel it appears that excavation/channel maintenance has not occurred for several years.</p>

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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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: [On behalf of Aristo Custom Homes by BME](#)
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 and Other: Aerial: Google Earth: 04/21/1994; 03/31/2002; 03/31/2005; 04/10/2016 Other: Photos taken in conjunction with the delineation data sheets dated November 3, 2020](#)
- Corps site visit(s) conducted on: [Date: June 6, 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [Note that a PJD for several other aquatic resources identified on the parcel was processed concurrently with this AJD using the same ORM Identification Number \(2020-01562\)](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Web Soil Survey – reviewed on June 30, 2021](#)
- USFWS NWI maps: [Fairport, New York Quad. The NWI map dates are grouped into decades. This subject NWI map was dated in the 1990's.](#)
- USGS topographic maps: [Topo map from the ORM database – no specific date](#)

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): 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 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 (PDSI) and the University of Delaware WebWIMP.

Calculations for this APT evaluation utilized the Rochester, New York airport weather station data.



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APT calculations for the delineation date of 10/29/2020 and Corps site visit date of 06/30/2021. Note that rain events had occurred for two days before, but not on the day of the site visit. Areas of standing water, but no flow was observed in the channel.

Date	PDSI Value	PDSI Class	Season	ARC Score	APT
10/29/2020	-0.92	Incipient drought	Wet Season	11	Normal Conditions
06/30/2021	-2.88	Moderate drought	Dry Season	10	Normal Conditions

Corps site visit date of 06/30/2021: Scattered rain showers had occurred on the two previous days before the site visit. The channel was walked and areas of inundation, but no flow, were observed in the rock/vegetation filled channel, similar to what was recorded in the delineation report.

ATP calculations were also run for Google Earth aerial photos for the following years:

Date	PDSI Value	PDSI Class	Season	ARC Score	APT
04/21/1994	1.89	Mild wetness	Wet Season	15	Wetter than Normal
03/31/2002	0.12	Normal	Wet Season	13	Normal Conditions
03/31/2005	2.07	Moderate wetness	Wet Season	10	Normal Conditions
05/09/2011	4.52	Extreme wetness	Dry Season	14	Normal Conditions
04/10/2016	-0.83	Incipient drought	Wet Season	10	Normal Conditions
06/28/2018	1.91	Mild Wetness	Dry Season	12	Normal Conditions
03/21/2021	-2.19	Moderate Drought	Wet Season	9	Drier than Normal

The PDSI class varies from year to year for both the site visit dates and the referenced aerial photo dates and all but the Corps site visit date (06/30/2021) and the 2011 aerial are calculated the wet season.

The 2002 aerial does not depict water in the channel in the PDSI Normal Class for the Wet Season under Normal Conditions.

The 2005 aerial suggests water in the channel in the PDSI Moderate Wetness Class for the Wet Season under Normal Conditions.

The 2011 aerial does not depict water in the channel in the PDSI Extreme Wetness Class for the Dry Season under Normal Conditions.

The 2016 aerial suggests water in the channel in the PDSI Incipient Drought Class in the Wet Season under Normal Conditions.

The 2018 aerial does not depict water in the channel in the PDSI Mild Wetness Class in the Dry Season under Normal Conditions.

The 2021 aerial suggests water in the channel in the PDSI Moderate Drought in the Wet Season under Drier than Normal Conditions.



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REGULATORY PROGRAM
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Data suggest that the channel conveyed flow in the Wet Season under Normal Conditions, with the exception of 2002 (Normal Class) and 2011 (Extreme Wetness Class). In 2018 water was not shown in the Dry Season under Normal Conditions. Although the 2021 aerial suggests water in the channel under Drier than Normal Conditions, on-site observations in October 2020 and June 2021 confirm the establishment of dense vegetation in the channel, suggesting that this signature may not reflect the presence of water in the channel.

Therefore, based on the above information and on-site observations, the C-1 reach of this stream has been determined to be ephemeral in nature and, therefore, is not jurisdictional under the Navigable Waters Protection Rule.

C. Additional comments to support AJD:

The web soil survey indicates mapped soils that surround Stream C through the agricultural fields are identified as Claverick loamy fine sand, 0 to 2 percent slopes (CkA); Hilton loam, 3 to 8 percent slopes (HIB); Ontario loam, 8 to 15 percent slopes (OnBC); and Palmyra gravely loam, 3 to 8 percent slopes (PgB), which all have a hydric rating of 0.