



**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): 8/19/2021

ORM Number: LRB-2021-00142

Associated JDs: N/A

Review Area Location¹: State/Territory: New York City: Ithaca County/Parish/Borough: Tompson
229 Cherry Street, Ithaca, New York

Center Coordinates of Review Area: Latitude 42.434952 Longitude -76.515719

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
Wetland A-1 PEM Wetland A-2 PSS	0.36 0.023	acre(s)	(b)(1) Non-adjacent wetland.	<p>Wetlands A and B were formed in small depressions associated with inadequate grading decades ago when the industrial park was being developed parcel by parcel. Hydrology is supplied by rain surface water runoff from surrounding impervious areas.</p> <p>There is an off-site drainage ditch to the east directly adjacent to the parcel that runs along the boundary between the raised rail bed and the rear parcel boundaries along Cherry Street. Google Earth aerial photos suggest that water is not always present in the ditch.</p> <p>On-site observations confirmed the presence of water on July 28, 2021 and also that the feature is heavily vegetated with aquatic species. Confirmation that the ditch is not a modified stream was determined by a review of historical aerials and historic USGS topo maps, which do not suggest evidence of a previously mapped stream in the footprint/ general location of the subject ditch.</p> <p>Soil type for the entire industrial park could not be determined by the Web Soil Survey which defines the area as “No Digital Data Available” even when the area of interest was enlarged substantially beyond the subject parcel.</p> <p>Using the measurement tool from Google Earth, we estimate that the parcel is approximately 0.13 mile away from the Cayuga Inlet to the west and over 900 feet from a tributary to Six Mile Creek to the east – both pathways with multiple manmade barriers. These features are the nearest A2 waters to the subject wetlands.</p>
Wetland B	PSS 0.017	acre(s)	(b)(1) Non-adjacent wetland.	See description above which includes this wetland.

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: [Delta Engineers](#)

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: 03/26/1995; 04/30/2007](#)

[Other photos: Those submitted with the delineation report and dated 12/03/2020](#)

- Corps site visit(s) conducted on: [07/28/2021](#)

- 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: [On Line Web Soil Survey as referenced on August 9, 2021](#)

- USFWS NWI maps: [Ithaca West, New York](#)

- USGS topographic maps: [utilized from the ORM database](#)

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)-(a)(3) water into onsite wetlands. Aerial photos were used to evaluate historic conditions and these determinations did not require a typical year assessment.

Further, the distance between the nearest (a)(1)-(a)(3) water and the barriers (for instance, elevated railroad bed, industrial park structures, roads, higher ground) between the wetlands and those waters would not suggest inundation at least once in a typical year.

C. Additional comments to support AJD: Based on the above information, the subject wetlands do not abut an (a)(1)-(a)(3) water, nor are the wetlands inundated by flooding by an (a)(1)-(a)(3) water in a typical year, are not separated from an (a)(1)-(a)(3) water via a natural berm or barrier, and are 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.