

**APPROVED JURISDICTIONAL DETERMINATION FORM**  
**U.S. Army Corps of Engineers**

This form should be completed by following the instructions provided in Section IV of the JD Form Instructional Guidebook.

**SECTION I: BACKGROUND INFORMATION**

**A. REPORT COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (JD): 12/14/2021**

**B. DISTRICT OFFICE, FILE NAME, AND NUMBER:** Buffalo District; Auburn Field Office; NextEra Energy, Inc.  
(Garnet Energy Center, LLC); File No. 2021-00337

**C. PROJECT LOCATION AND BACKGROUND INFORMATION:** Staub Road  
State: New York County: Cayuga City: Town of Conquest

Center coordinates of site (lat/long in degree decimal format): Lat: 43.146 Long: -76.624  
Universal Transverse Mercator: X: 367943.103033 Y: 4778308.090791 Zone: 18  
Name of nearest waterbody: Little Sodus Creek  
Name of nearest Traditional Navigable Water (TNW) into which the aquatic resource flows: N/A  
Name of watershed or Hydrologic Unit Code (HUC): 04140101

- Check if map/diagram of review area and/or potential jurisdictional areas is/are available upon request.
- Check if other sites (e.g., offsite mitigation sites, disposal sites, etc...) are associated with this action and are recorded on a different JD form.

**D. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):**

- Office (Desk) Determination.
- Field Determination. Date: October 8, 2021

**SECTION II: SUMMARY OF FINDINGS**

**A. RHA SECTION 10 DETERMINATION OF JURISDICTION.**

There **ARE NO** "navigable waters of the U.S." within Rivers and Harbors Act (RHA) jurisdiction (as defined by 33 CFR part 329) in the review area. [Required]

- Waters subject to the ebb and flow of the tide.
- Waters are presently used, or have been used in the past, or may be susceptible for use to transport interstate or foreign commerce. Explain:

**B. CWA SECTION 404 DETERMINATION OF JURISDICTION.**

There **ARE NO** "waters of the U.S." within Clean Water Act (CWA) jurisdiction (as defined by 33 CFR part 328) in the review area. [Required]

**1. Waters of the U.S.**

**a. Indicate presence of waters of U.S. in review area (check all that apply):<sup>1</sup>**

- TNWs, including territorial seas
- Wetlands adjacent to TNWs
- Relatively permanent waters<sup>2</sup> (RPWs) that flow directly or indirectly into TNWs
- Non-RPWs that flow directly or indirectly into TNWs
- Wetlands directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to but not directly abutting RPWs that flow directly or indirectly into TNWs
- Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs
- Impoundments of jurisdictional waters
- Isolated (interstate or intrastate) waters, including isolated wetlands

**b. Identify (estimate) size of waters of the U.S. in the review area:**

Non-wetland waters: linear feet: width (ft) and/or acres.  
Wetlands: acres.

<sup>1</sup> Boxes checked below shall be supported by completing the appropriate sections in Section III below.

<sup>2</sup> For purposes of this form, an RPW is defined as a tributary that is not a TNW and that typically flows year-round or has continuous flow at least "seasonally" (e.g., typically 3 months).

**c. Limits (boundaries) of jurisdiction** based on: **Pick List**  
Elevation of established OHWM (if known):

**2. Non-regulated waters/wetlands (check if applicable):<sup>3</sup>**

- Potentially jurisdictional waters and/or wetlands were assessed within the review area and determined to be not jurisdictional.

**Wetlands:**

W-BTF-2 PEM 0.07 acre Sheet 6

This wetland established in a small depressional area within an active agricultural field and the wetland footprint can readily be seen on Google Earth and HistoricAerial.com photos.

W-BTF-11 PFO 4.07 acres Sheet 6

This wetland is surrounded by agricultural fields and has a man-made channel identified as S-BTF-7A (see below) that directs drainage from the wetland south.

W-NSD-3 PFO 0.13 acre Sheet 12

W-NSD-3 established in a small depressional area at the juncture of a farm road that connects agricultural fields and toe of a steep slope to the east.

Explain: The USACE site visits on May 11 and October 15, 2021 found all three wetlands to be isolated, intrastate wetlands which have no interstate or foreign commerce nexus.

**Streams:**

S-BTF-7A Isolated/Ephemeral 1220 linear feet Sheet 6

S-BTF-7A is a shallow, discrete feature approximately 1-3 feet wide that originates within PFO Wetland W-BTF-11 (see above). The feature lacks a pronounced bed/bank within the wetland and continues south along the active agricultural field boundary for approximately 500 feet where it becomes a ditched channel with distinct bed/bank in some areas and ends at the farm road.

Explain: The USACE site visits on May 11 and October 15, 2021 confirmed that the channel between the wetland and the farm road crossing does exhibit bed and bank in some areas but lacks relatively permanent flow and does not have any connectivity to downstream waters. Further, this feature does not meet federal wetland criteria.

S-NSD-2A Isolated/Ephemeral 117 linear feet Sheet 12

S-NSD-2A is a shallow, discrete feature approximately 1-3 feet wide that originates from Wetland W-NSD-3 (see above) and dissipates overland.

Explain: The USACE site visits on May 11 and October 15, 2021 confirmed that the stream exhibits marginal bed/bank, lacks relatively permanent flow, and does not have any connectivity to downstream waters. Further, this feature does not meet federal wetland criteria.

**SECTION III: CWA ANALYSIS**

**A. TNWs AND WETLANDS ADJACENT TO TNWs**

**The agencies will assert jurisdiction over TNWs and wetlands adjacent to TNWs. If the aquatic resource is a TNW, complete Section III.A.1 and Section III.D.1. only; if the aquatic resource is a wetland adjacent to a TNW, complete Sections III.A.1 and 2 and Section III.D.1.; otherwise, see Section III.B below.**

**1. TNW**

Identify TNW:

Summarize rationale supporting determination:

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<sup>3</sup> Supporting documentation is presented in Section III.F.

**2. Wetland adjacent to TNW**

Summarize rationale supporting conclusion that wetland is “adjacent”:

**B. CHARACTERISTICS OF TRIBUTARY (THAT IS NOT A TNW) AND ITS ADJACENT WETLANDS (IF ANY):**

This section summarizes information regarding characteristics of the tributary and its adjacent wetlands, if any, and it helps determine whether or not the standards for jurisdiction established under *Rapanos* have been met.

The agencies will assert jurisdiction over non-navigable tributaries of TNWs where the tributaries are “relatively permanent waters” (RPWs), i.e. tributaries that typically flow year-round or have continuous flow at least seasonally (e.g., typically 3 months). A wetland that directly abuts an RPW is also jurisdictional. If the aquatic resource is not a TNW, but has year-round (perennial) flow, skip to Section III.D.2. If the aquatic resource is a wetland directly abutting a tributary with perennial flow, skip to Section III.D.4.

A wetland that is adjacent to but that does not directly abut an RPW requires a significant nexus evaluation. Corps districts and EPA regions will include in the record any available information that documents the existence of a significant nexus between a relatively permanent tributary that is not perennial (and its adjacent wetlands if any) and a traditional navigable water, even though a significant nexus finding is not required as a matter of law.

If the waterbody<sup>4</sup> is not an RPW, or a wetland directly abutting an RPW, a JD will require additional data to determine if the waterbody has a significant nexus with a TNW. If the tributary has adjacent wetlands, the significant nexus evaluation must consider the tributary in combination with all of its adjacent wetlands. This significant nexus evaluation that combines, for analytical purposes, the tributary and all of its adjacent wetlands is used whether the review area identified in the JD request is the tributary, or its adjacent wetlands, or both. If the JD covers a tributary with adjacent wetlands, complete Section III.B.1 for the tributary, Section III.B.2 for any onsite wetlands, and Section III.B.3 for all wetlands adjacent to that tributary, both onsite and offsite. The determination whether a significant nexus exists is determined in Section III.C below.

**1. Characteristics of non-TNWs that flow directly or indirectly into TNW**

**(i) General Area Conditions:**

Watershed size: **Pick List**  
Drainage area: **Pick List**  
Average annual rainfall: \_\_\_\_\_ inches

**(ii) Physical Characteristics:**

**(a) Relationship with TNW:**

- Tributary flows directly into TNW.
- Tributary flows through **Pick List** tributaries before entering TNW
- Project waters are **Pick List** river miles from TNW
- Project waters are **Pick List** river miles from RPW
- Project waters are **Pick List** aerial (straight) miles from TNW
- Project waters are **Pick List** aerial (straight) miles from RPW
- Project waters cross or serve as state boundaries. Explain:  
Identify flow route to TNW<sup>5</sup>:  
Tributary stream order, if known:

**(b) General Tributary Characteristics (check all that apply):**

- Tributary is:**  Natural  
 Artificial (man-made). Explain:  
 Manipulated (man-altered). Explain:

<sup>4</sup> Note that the Instructional Guidebook contains additional information regarding swales, ditches, washes, and erosional features generally and in the arid West.

<sup>5</sup> Flow route can be described by identifying, e.g., tributary a, which flows through the review area, to flow into tributary b, which then flows into TNW.



**(iv) Biological Characteristics. Channel supports (check all that apply):**

- Riparian corridor. Characteristics (type, average width):
- Wetland fringe. Characteristics:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

**2. Characteristics of wetlands adjacent to non-TNW that flow directly or indirectly into TNW**

**(i) Physical Characteristics:**

**(a) General Wetland Characteristics:**

Properties:

Wetland size:        acres

Wetland type. Explain:

Wetland quality. Explain:

Project wetlands cross or serve as state boundaries. Explain:

**(b) General Flow Relationship with Non-TNW:**

Flow is: **Pick List**. Explain:

Surface flow is: **Pick List**

Characteristics:

Subsurface flow: **Pick List**. Explain findings:

Dye (or other) test performed:

**(c) Wetland Adjacency Determination with Non-TNW:**

Directly abutting

Not directly abutting

Discrete wetland hydrologic connection. Explain:

Ecological connection. Explain:

Separated by berm/barrier. Explain:

**(d) Proximity (Relationship) to TNW**

Project wetlands are **Pick List** river miles from TNW.

Project waters are **Pick List** aerial (straight) miles from TNW.

Flow is from: **Pick List**.

Estimate approximate location of wetland as within the **Pick List** floodplain.

**(ii) Chemical Characteristics:**

Characterize wetland system (e.g., water color is clear, brown, oil film on surface; water quality; general watershed characteristics; etc.). Explain:

Identify specific pollutants, if known:

**(iii) Biological Characteristics. Wetland supports (check all that apply):**

- Riparian buffer. Characteristics (type, average width):
- Vegetation type/percent cover. Explain:
- Habitat for:
  - Federally Listed species. Explain findings:
  - Fish/spawn areas. Explain findings:
  - Other environmentally-sensitive species. Explain findings:
  - Aquatic/wildlife diversity. Explain findings:

**3. Characteristics of all wetlands adjacent to the tributary (if any)**

All wetland(s) being considered in the cumulative analysis: **Pick List**

Approximately (        ) acres in total are being considered in the cumulative analysis.

For each wetland, specify the following:

Directly abuts? (Y/N)    Size (in acres)                      Directly abuts? (Y/N)    Size (in acres)  
Summarize overall biological, chemical and physical functions being performed:

**C. SIGNIFICANT NEXUS DETERMINATION**

A significant nexus analysis will assess the flow characteristics and functions of the tributary itself and the functions performed by any wetlands adjacent to the tributary to determine if they significantly affect the chemical, physical, and biological integrity of a TNW. For each of the following situations, a significant nexus exists if the tributary, in combination with all of its adjacent wetlands, has more than a speculative or insubstantial effect on the chemical, physical and/or biological integrity of a TNW. Considerations when evaluating significant nexus include, but are not limited to the volume, duration, and frequency of the flow of water in the tributary and its proximity to a TNW, and the functions performed by the tributary and all its adjacent wetlands. It is not appropriate to determine significant nexus based solely on any specific threshold of distance (e.g. between a tributary and its adjacent wetland or between a tributary and the TNW). Similarly, the fact an adjacent wetland lies within or outside of a floodplain is not solely determinative of significant nexus.

Draw connections between the features documented and the effects on the TNW, as identified in the *Rapanos* Guidance and discussed in the Instructional Guidebook. Factors to consider include, for example:

- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to carry pollutants or flood waters to TNWs, or to reduce the amount of pollutants or flood waters reaching a TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), provide habitat and lifecycle support functions for fish and other species, such as feeding, nesting, spawning, or rearing young for species that are present in the TNW?
- Does the tributary, in combination with its adjacent wetlands (if any), have the capacity to transfer nutrients and organic carbon that support downstream foodwebs?
- Does the tributary, in combination with its adjacent wetlands (if any), have other relationships to the physical, chemical, or biological integrity of the TNW?

**Note: the above list of considerations is not inclusive and other functions observed or known to occur should be documented below:**

1. **Significant nexus findings for non-RPW that has no adjacent wetlands and flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary itself, then go to Section III.D: .
2. **Significant nexus findings for non-RPW and its adjacent wetlands, where the non-RPW flows directly or indirectly into TNWs.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D: .
3. **Significant nexus findings for wetlands adjacent to an RPW but that do not directly abut the RPW.** Explain findings of presence or absence of significant nexus below, based on the tributary in combination with all of its adjacent wetlands, then go to Section III.D:

**D. DETERMINATIONS OF JURISDICTIONAL FINDINGS. THE SUBJECT WATERS/WETLANDS ARE (CHECK ALL THAT APPLY):**

1. **TNWs and Adjacent Wetlands.** Check all that apply and provide size estimates in review area:  
 TNWs:        linear feet        width (ft), Or,        acres.  
 Wetlands adjacent to TNWs:        acres.
2. **RPWs that flow directly or indirectly into TNWs.**  
 Tributaries of TNWs where tributaries typically flow year-round are jurisdictional. Provide data and rationale indicating that tributary is perennial: .  
 Tributaries of TNW where tributaries have continuous flow “seasonally” (e.g., typically three months each year) are jurisdictional. Data supporting this conclusion is provided at Section III.B. Provide rationale indicating that tributary flows seasonally:

Provide estimates for jurisdictional waters in the review area (check all that apply):

- Tributary waters:            linear feet            width (ft).
- Other non-wetland waters:            acres.

Identify type(s) of waters:

**3. Non-RPWs<sup>8</sup> that flow directly or indirectly into TNWs.**

- Waterbody that is not a TNW or an RPW, but flows directly or indirectly into a TNW, and it has a significant nexus with a TNW is jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional waters within the review area (check all that apply):

- Tributary waters:            linear feet            width (ft).
- Other non-wetland waters:            acres.

Identify type(s) of waters:

**4. Wetlands directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands directly abut RPW and thus are jurisdictional as adjacent wetlands.
  - Wetlands directly abutting an RPW where tributaries typically flow year-round. Provide data and rationale indicating that tributary is perennial in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:
  - Wetlands directly abutting an RPW where tributaries typically flow “seasonally.” Provide data indicating that tributary is seasonal in Section III.B and rationale in Section III.D.2, above. Provide rationale indicating that wetland is directly abutting an RPW:

Provide acreage estimates for jurisdictional wetlands in the review area:            acres.

**5. Wetlands adjacent to but not directly abutting an RPW that flow directly or indirectly into TNWs.**

- Wetlands that do not directly abut an RPW, but when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide acreage estimates for jurisdictional wetlands in the review area:            acres.

**6. Wetlands adjacent to non-RPWs that flow directly or indirectly into TNWs.**

- Wetlands adjacent to such waters, and have when considered in combination with the tributary to which they are adjacent and with similarly situated adjacent wetlands, have a significant nexus with a TNW are jurisdictional. Data supporting this conclusion is provided at Section III.C.

Provide estimates for jurisdictional wetlands in the review area:            acres.

**7. Impoundments of jurisdictional waters.<sup>9</sup>**

As a general rule, the impoundment of a jurisdictional tributary remains jurisdictional.

- Demonstrate that impoundment was created from “waters of the U.S.,” or
- Demonstrate that water meets the criteria for one of the categories presented above (1-6), or
- Demonstrate that water is isolated with a nexus to commerce (see E below).

**E. ISOLATED [INTERSTATE OR INTRA-STATE] WATERS, INCLUDING ISOLATED WETLANDS, THE USE, DEGRADATION OR DESTRUCTION OF WHICH COULD AFFECT INTERSTATE COMMERCE, INCLUDING ANY SUCH WATERS (CHECK ALL THAT APPLY):<sup>10</sup>**

- which are or could be used by interstate or foreign travelers for recreational or other purposes.
- from which fish or shellfish are or could be taken and sold in interstate or foreign commerce.
- which are or could be used for industrial purposes by industries in interstate commerce.
- Interstate isolated waters. Explain:

**Identify water body and summarize rationale supporting determination:** .

Provide estimates for jurisdictional waters in the review area (check all that apply):

<sup>8</sup>See Footnote # 3.

<sup>9</sup> To complete the analysis refer to the key in Section III.D.6 of the Instructional Guidebook.

<sup>10</sup> Prior to asserting or declining CWA jurisdiction based solely on this category, Corps Districts will elevate the action to Corps and EPA HQ for review consistent with the process described in the Corps/EPA Memorandum Regarding CWA Act Jurisdiction Following Rapanos.

- Tributary waters:      linear feet      width (ft).
- Other non-wetland waters:      acres.  
    Identify type(s) of waters:
- Wetlands:      acres.

**F. NON-JURISDICTIONAL WATERS, INCLUDING WETLANDS (CHECK ALL THAT APPLY):**

- If potential wetlands were assessed within the review area, these areas did not meet the criteria in the 1987 Corps of Engineers Wetland Delineation Manual and/or appropriate Regional Supplements.
- Review area included isolated waters with no substantial nexus to interstate (or foreign) commerce.**
  - Prior to the Jan 2001 Supreme Court decision in “SWANCC,” the review area would have been regulated based solely on the “Migratory Bird Rule” (MBR).**
- Waters do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction. Explain:
- Other: (explain, if not covered above):

Wetlands:

PEM W-BTF-2 (Sheet 6) established in a small depressional area within an active agricultural field and the wetland footprint can readily be seen on various Google Earth and HistoricAerial.com photos.

According to the on-line Web Soil Survey, the wetland occurs in Hilton loam, 3 to 8 percent slopes which has a hydric rating of 0.

Using the Google Earth measuring tool, the distance from the wetland to the nearest tributary is approximately 2300 feet southwest; with undulating topography, agriculture fields, and forested woodlots impeding connectivity.

Explain: The USACE site visits on May 11 and October 15, 2021 found this to be an isolated, intrastate wetland which has no interstate or foreign commerce nexus and does not meet the wetland adjacency criteria. Further, due to topography and distance to the nearest tributary, the presence of a shallow subsurface flow connection for the wetland is very unlikely.

PFO W-BTF-11 (Sheet 6) is a remnant woodlot surrounded by agricultural fields. An ephemeral channel originates within the wetland (see S-BTF-7A below) which directs drainage south but lacks connectivity to downstream waters.

The wetland is mapped on the NWI, and according to the on-line Web Soil Survey, occurs in Minoa fine sandy loam which has a hydric rating of 10.

Using the Google Earth measuring tool, the distance from the wetland to the nearest tributary (S-BTF-B) is approximately 1500 feet directly south with elevated topography, agriculture fields, and farm road impeding connectivity.

Explain: The USACE site visits on May 11 and October 15, 2021 found this to be an isolated, intrastate wetland which has no interstate or foreign commerce nexus that does not meet the wetland adjacency criteria. Further, due to topography and distance to the nearest tributary, the presence of a shallow subsurface flow connection for the wetland is very unlikely.

PFO W-NSD-3 (Sheet 12) established in a small depressional area at the juncture of a farm road that connects agricultural fields and toe of a steep ridge to the east. Hydrologic input appears to be precipitation and overland flow down the ridge slope. A shallow/ephemeral stream (S-NSD-2A below) carries wetland drainage to the north but becomes indistinct and dissipates overland.

The wetland is not depicted on historic aerial, topographic or NWI maps. According to the on-line Web Soil Survey, the wetland occurs in Appleton and Lyons soils, 0 to 3 percent slopes which has a hydric rating of 53.

Using the USACE ORM measuring tool, the distance from the wetland to the nearest conveyance is approximately 50 feet (S-NSD-2B) which channels flow to a large off-site wetland complex discharging to an unnamed tributary to Little Sodus Creek.

Explain: The USACE site visits on May 11 and October 15, 2021 found this to be an isolated, intrastate wetland which has no interstate or foreign commerce nexus that does not meet the wetland adjacency criteria. Further, due to topography and distance to the nearest conveyance, the presence of a shallow subsurface flow connection for the wetland is very unlikely.

Provide acreage estimates for non-jurisdictional waters in the review area, where the sole potential basis of jurisdiction is the MBR factors (i.e., presence of migratory birds, presence of endangered species, use of water for irrigated agriculture), using best professional judgment (check all that apply):

Non-wetland waters (i.e., rivers, streams):

Streams:

S-BTF-7A Ephemeral 1220 linear feet Sheet 6

S-BTF-7A is a shallow, discrete feature approximately 1-3 feet wide that originates within PFO Wetland W-BTF-11. The feature lacks a pronounced bed/bank within the wetland and continues south along the active agricultural field boundary for approximately 500 feet where it becomes a ditched channel with distinct bed/bank in some areas. Connectivity of this channel to the southern portion of the channel is impeded by elevated topography for approximately 50-feet before the culverted crossing of the farm road that splits the channel. The elevated portion of the channel was overgrown with upland vegetation and there was no evidence of recent flow reaching the south side of the farm road via the culvert.

Note that the culvert was installed just under the road crossing with both the receiving and discharge ends several feet above the channel (i.e., not embedded). It is a simple farm road culvert that was not sized to the ordinary highwater mark, with the fill around the culvert blocking any through flow that may have occurred in the past. Further, as stated above, the northern portion of the ditch for about 50-feet upstream is approximately two-feet higher in elevation than the rest of the channel, impeding flow to the culvert. In summary, the culvert does not appear to provide connectivity between the north and south portions of the ditch.

According to the on-line Web Soil survey, the channel runs through patches of Collamer silt loam, 0 to 2 percent slopes with a hydric rating of 5 and Madalin silt loam, sand subsoil variant, 0 to 3 percent slopes with a hydric rating of 95.

Aerial photos depict the hedgerow adjacent to the agriculture field, but no channel is evident.

(Note that the channel south of the farm road identified as S-BTF-7B is processed separately under a preliminary jurisdictional determination document and is mentioned here only as a reference)

Explain: The USACE site visits on May 11 and October 15, 2021 confirm the entire northern portion of the channel between the wetland and the farm road crossing does exhibit bed/bank in areas but lacks relatively permanent flow and does not have connectivity to downstream waters. Further, this feature does not meet federal wetland criteria.

S-NSD-2A Isolated/Ephemeral 117 linear feet Sheet 12

S-NSD-2A is a shallow, discrete feature approximately 1-3 feet wide that originates from Wetland W-NSD-3 and dissipates overland. (Note that discharge from an agricultural field drain tile discharges approximately 40-50 feet north into a man-made channel with intermittent flow directing the discharge south to a wetland complex. This feature is identified as S-NSD-2B and is processed separately under a preliminary jurisdictional determination document and is mentioned here only as a reference). There is no connectivity between S-NSD-2A and S-NSD-2B.

The stream is not depicted on historic aerial, topographic or NWI maps. According to the on-line Web Soil Survey, the feature occurs in Appleton and Lyons soils, 0 to 3 percent slopes which has a hydric rating of 53.

The USACE site visits on May 11 and October 15, 2021 confirm that the stream exhibits marginal bed/bank, lacks relatively permanent flow, and does not have connectivity to downstream waters. Further, this feature does not meet federal wetland criteria.

- Lakes/ponds:            acres.
- Other non-wetland waters:            acres. List type of aquatic resource:
- Wetlands:
 

W-BTF-2	PEM	0.07 acre
W-BTF-11	PFO	4.07 acres
W-NSD-3	PFO	0.13 acre

Provide acreage estimates for non-jurisdictional waters in the review area that do not meet the “Significant Nexus” standard, where such a finding is required for jurisdiction (check all that apply):

- Non-wetland waters (i.e., rivers, streams):            linear feet,            width (ft).
- Lakes/ponds:            acres.
- Other non-wetland waters:            acres. List type of aquatic resource:
- Wetlands:            acres.

**SECTION IV: DATA SOURCES.**

**A. SUPPORTING DATA. Data reviewed for JD (check all that apply - checked items shall be included in case file and, where checked and requested, appropriately reference sources below):**

- Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant.
- Data sheets prepared/submitted by or on behalf of the applicant/consultant.
  - Office concurs with data sheets/delineation report
  - Office does not concur with data sheets/delineation report.
- Data sheets prepared by the Corps:
- Corps navigable waters’ study:
- U.S. Geological Survey Hydrologic Atlas:
  - USGS NHD data.
  - USGS 8 and 12 digit HUC maps.
- U.S. Geological Survey map(s). Cite scale & quad name: Scale: 24000; Cato, New York
- USDA Natural Resources Conservation Service Soil Survey. Citation: on-line Web Soil Survey
- National wetlands inventory map(s).            Cite name: Cato, New York
- State/Local wetland inventory map(s):            Cite name: Cato, New York
- FEMA/FIRM maps:
- 100-year Floodplain Elevation is:            (National Geodectic Vertical Datum of 1929)
- Photographs:
  - Aerial (Name & Date): Google Earth 1995, 2009, 2011, 2020
  - Other (Name & Date): Topographic Map from the ORM database; photos dated June 2020 contained in the delineation report
- Previous determination: A preliminary jurisdictional determination dated November 9, 2021 using the same reference number (2021-00337) was prepared for all other aquatic resources within the approximately ±2300 acre (60± independent parcels) review area not covered in this approved jurisdictional determination.
- Applicable/supporting case law:
- Applicable/supporting scientific literature:
- Other information (please specify):

**B. ADDITIONAL COMMENTS TO SUPPORT JD:**