



**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): 8/17/2020
 ORM Number: NAN-2018-00514-UDE
 Associated JDs: N/A
 Review Area Location¹: State/Territory: New York City: Saratoga Springs
 County/Parish/Borough: Saratoga
 Center Coordinates of Review Area: Latitude 43.058278 Longitude -73.775727

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
 - 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.

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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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	9.09 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A abuts unnamed tributary to Kayaderosseras Creek, which is a navigable water. See also III.C below.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland B	0.18 acre(s)	(b)(1) Non-adjacent wetland.	Wetland not adjacent to (a)(1) through (a)(3) water, see also III.C below.
Wetland C	0.13 acre(s)	(b)(1) Non-adjacent wetland.	Wetland not adjacent to (a)(1) through (a)(3) water, see also III.C below.

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: Report entitled “Wetland Delineation and Endangered Species Screening, Crescent Avenue and Bunny Lake Drive Parcel, Tax Map 179.00-5-8, Saratoga Springs, New York”, prepared by Quenzer Environmental, LLC, dated July 2019, and last revised July 9, 2020, and drawing entitled “Army Corp Wetland Map for Tax Map #179.00-5-8, City of Saratoga Springs, County of Saratoga, State of New York”, prepared by Hershberg & Hershberg Consulting Engineers and Land Surveyors, dated June 4, 2019, and last revised July 9, 2020.

This information is sufficient for purposes of this AJD.

Rationale:

- Data sheets prepared by the Corps: N/A
- Photographs: Other: Ground-level photos taken during USACE site inspection, and those included in referenced delineation report.
- Corps site visit(s) conducted on: April 19, 2018
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Figure 5 in referenced delineation report.
- USFWS NWI maps: Figure 3 in referenced delineation report.
- USGS topographic maps: Review in USACE ORM system.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	Section 10 listing for Kayaderosseras Creek

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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Data Source (select)	Name and/or date and other relevant information
State/Local wetland inventory maps	NYSDEC Environmental Resource Mapper, Figure 4 in referenced report.
Other Sources	N/A.

B. Typical year assessment(s): Utilized Antedent Precipitation Tool (APT) to assess site conditions observed on date of USACE site inspection, which was April 19, 2018. Graphic and tables illustrating results are dated August 5, 2020. Geographic area was in the wet season at the time of inspection, and precipitation during this time period was in normal range. Observations made during inspection were reflective of conditions identified in APT. Surface water was observed within Wetland A, but not within Wetlands B or C. There was no surface water flowing into or out of Wetlands B or C at the time of the USACE inspection. Multiple weather stations used in the analysis are very close to the subject site, including 3 in Saratoga Springs.

C. Additional comments to support AJD: USGS topographic map indicates a tributary stream should be on-site in Wetland A. USACE field inspection confirmed the lack of stream on site, however, Wetland A continues off-site to the south, crosses beneath Crescent Avenue via a culvert and continues on state land briefly where it abuts the unnamed tributary to Kayaderosseras Creek that is shown on the USGS topographic map, which is an (a)(3) water. This unnamed stream has both intermittent and perennial reaches. Kayaderosseras Creek is an (a)(1) water. Wetlands B and C are in the southeast corner of the site, lie entirely within the site boundary and have no natural or artificial surface connection to Wetland A. There is a natural ridge between Wetland A and Wetlands B and C. Wetlands B and C slope toward Crescent Avenue, and there is an upland ridge between these wetlands and the off-site ditch along Crescent Avenue. This ditch did not have any surface flow at the time of the USACE site inspection, nor are there any culverts connecting the wetlands to the ditch. There are no culverts under Crescent Avenue near where Wetlands B and C are located, and there are higher elevation uplands along the opposite sides of both Crescent Avenue and Bunny Lake Drive. The roads are also higher in elevation than Wetlands B and C. Wetlands B and C do not abut an (a)(1), (a)(2) or (a)(3) water, nor are they inundated by flooding from an (a)(1), (a)(2) or (a)(3) water during a typical year, nor are they separated from an (a)(1), (a)(2) or (a)(3) water by either a natural berm or similar feature, or by an artificial barrier or similar structure that provides a direct hydrologic surface connection between the wetlands and an (a)(1), (a)(2) or (a)(3) water in a typical year. Wetland A had surface water at the time of the USACE inspection, whereas Wetlands B and C did not. The nearest (a)(1), (a)(2) or (a)(3) water to Wetlands B and C is the (a)(3) stream associated with Wetland A. These two wetlands are at least 700 feet from, and several feet higher in elevation than the nearest part of this tributary.