



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): December 2, 2020

ORM Number: NAN-2020-01031-WOR

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Highlands County/Parish/Borough: Orange County

Center Coordinates of Review Area: Latitude 41.393164 Longitude -73.966678

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 and 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 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.

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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 1 (formerly Delafield Pond)	1.09 acres	(b)(1) Non-adjacent wetland	Wetland 1 is not located within a 100-year floodplain. Wetland 1 is located approximately 2,400 feet from and 300 feet higher in elevation than the Hudson River, the nearest water of the United States. Wetland 1 is also located approximately 425 feet from and 60 feet higher in elevation than a catch basin located along Merritt road, with no apparent hydrologic connection. The catch basin at Merritt Road is the closest point at which water from Wetland 1 is collected by the storm water system for eventual discharge to the Hudson River.

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: *Drawing entitled “Delafield Dam Decommissioning – Delineated Resources Map”, Fig. 7, prepared by Bergmann; “Wetland/Watercourse Delineation & Preliminary Threatened and Endangered Species Review Report Delafield Dam Decommissioning Project”, prepared by Bergmann, dated November 13, 2020; and ground level photographs taken on October 2, 2020.*

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: *Google Earth Aerials dated December 9, 1998, and April 16, 2019. Ground level photographs dated October 2, 2020.*

Corps Site visit(s) conducted on: *Date(s).*

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: *Generated at Web Soil Survey October 1, 2020.*

USFWS NWI maps: *NWI layer included in New York State Department of Environmental Conservation’s (NYSDEC) Environmental Resource Mapper (ERM).*

USGS topographic maps: *USGS maps dated 1901, 1936, 1947, 1981 and 2019.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Quad maps 1901, 1936, 1947, 1981, 2019
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	FEMA Map # 36071C0364E

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Other Sources

N/A.

B. Typical year assessment(s):

- a. The antecedent precipitation tool (APT) was run for the two Google Earth aerial photographs, dated December 9, 1998, and April 16, 2019. According to the APT, December 9, 1998 and April 16, 2019 were experiencing moderate drought conditions.
- b. The consultant provided a wetland delineation report, including wetland data sheets for Wetland 1, dated October 29, 2020. The APT for that date, indicates that conditions were mild drought.
- c. The consultant provided color photographs from the area just north of Wetland 1 and between Wetland 1 and Merritt Road, that were taken on October 2, 2020. The APT for that date shows that the area was under mild drought conditions.

C. Additional comments to support AJD:

- a. The two Google Earth aeriels, dated December 9, 1998 and April 16, 2019 both show that there are no streams between Wetland 1 and Merritt Road.
- b. The color photographs taken on October 2, 2020, show that the area between Wetland 1 and Merritt Road does not appear to include any streams. The photographs traced out the area where water from Wetland 1 would likely flow downhill, showing small pockets of standing water, but no continuous ordinary high water (OHW) marks or bed and banks indicators.
- c. The NYSDEC's ERM web site includes National Wetland Inventory (NWI) and NYSDEC Wetland layers, neither of which show streams flowing between Wetland 1 and Merritt Road.
- d. The US Geologic Survey (USGS) map from 1901 shows a blue-line stream extending from Delafield Pond, north to the Hudson River. The USGS maps from 1936, 1947, 1981 and 2019 do not show a blue-line stream.
- e. The USDA soil map shows that the soils located in the area between Wetland 1 and Merritt Road are rock outcrop-Hollis complex and are not hydric.

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