



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 21, 2020

ORM Number: NAN-2020-01092-WOR

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Thompson County/Parish/Borough: Sullivan County

Center Coordinates of Review Area: Latitude 41.632886 Longitude -74.724388

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
Stream BO-2 Lower	300 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream BO-2 Lower is an intermittent, unnamed tributary to the Mongaup River, as evidenced by observed bed and banks, ordinary high-water marks and running water during most times of the year.

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 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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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	9.85 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland A was delineated using the 87 Manual/Regional Supplement and is physically contiguous to Stream BO-2 Lower, an intermittent, unnamed tributary to the Mongaup River.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Stream BO-2 Upper	500 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream BO-2 Upper is an intermittent stream that flows towards Stream BO-2 Lower and Wetland A, located approximately 150 feet east of and 12 feet higher in elevation than Stream BO-2 Lower. In the 150 feet between Streams BO-2 Upper and Lower, there are no bed and banks and no ordinary high water, as the water that flows from Stream BO-2 Upper spreads out, becoming overland flow.
Stream BO-3	440 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream BO-3 is an intermittent stream that flows towards Wetland A, located approximately 175 feet east of and 12 feet higher in elevation than Wetland A. In the 175 feet between Stream BO-3 and Wetland A, there are no bed and banks and no ordinary high water, as the water that flows from Stream BO-3 spreads out, becoming overland flow.

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 "Existing Conditions Plan Keren Fields LLC (Shimmie Horn) Sackett Lake Road & Sunset Drive Extension (T) Thompson * Sullivan County * New York", Sheet No. 1A, prepared by Glenn L. Smith Consulting Engineer, P.C., dated October 7, 2020, and last revised October 30, 2020; upland data sheet showing a typical upland area on site dated August 7, 2020; and ground level photographs taken on August 6, 2020, and September 25, 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: Aerial dated May 5, 2020, acquired from Sullivan County Parcel Viewer web site.

Ground level photographs dated August 6, 2020, and September 25, 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 September 21, 2020.*

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- ___ USFWS NWI maps: *Title(s) and/or date(s)*.
___ USGS topographic maps: *Title(s) and/or date(s)*.

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	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	FEMA Map # 36105C0465F

- B. Typical year assessment(s):** N/A or provide typical year assessment for each relevant data source used to support the conclusions in the AJD.
- a. The antecedent precipitation tool (APT) was run for the aerial photograph, dated May 5, 2020. According to the APT, May 5, 2020 was experiencing wetter than normal conditions.
 - b. The consultant provided one data sheet of a typical upland area, dated August 7, 2020. The APT for that date, indicates that conditions were normal.
 - c. The consultant provided color photographs of the intermittent streams and the wetland boundary, taken on August 6, 2020 and September 25, 2020. The APT shows that conditions were normal on both dates.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.
- a. The aerial photograph taken on May 5, 2020, clearly shows Wetland A and Stream BO-2 Lower, but Streams BO-2 Upper and BO-3 are not visible.
 - b. The consultant-provided data sheet appears to be representative of the site outside of Wetland A, which is dry, conifer-dominated land.
 - c. The consultant-provided color photographs appear to adequately show the accuracy of the drawn wetland boundary and extent of Streams BO-2 Lower, BO-2 Upper and BO-3.
 - d. The USDA soil map shows that the poorly drained soils correspond directly to the Raynam silt loam soils, which are poorly drained. The upland areas on site are dominated by Wellsboro gravelly loam which is moderately well drained.

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