



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): JUNE 25, 2021

ORM Number: NAN-2021-00362-WOR

Associated JDs: N/A

Review Area Location¹:

State/Territory: NY City: Marlborough County/Parish/Borough: Ulster County

Center Coordinates of Review Area: Latitude 41.682617 Longitude -73.996474

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 1	760 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 is a perennial, unnamed tributary to Twaalfskill Brook, 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 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 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 1	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 1 was delineated using the 87 Manual/Regional Supplement and directly abuts Stream 1, just west of the Study Area.
Wetland 2	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 2 was delineated using the 87 Manual/Regional Supplement and directly abuts Stream 1.
Wetland 3	1.34 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 3 was delineated using the 87 Manual/Regional Supplement and directly abuts Stream 1.
Wetland 4	0.11 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by a natural feature	Wetland 4 was delineated using the 87 Manual/Regional Supplement and is separated from Stream 1 by a natural berm that appears to indicate that Wetland 4 may have been located within a former channel of Stream 1. Wetland 4 is approximately 50 feet from Stream 1 at its closest point, and at approximately the same elevation.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	1170 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Existing topography, as well as aerial and ground-level photography show that Ditch 1 is a functioning component of the landfill, which likely only flows immediately after rain events.
Ditch 2	610 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Existing topography, as well as aerial and ground-level photography show that Ditch 2 is a functioning component of the landfill, which likely only flows immediately after rain events.
Ditch 3	185 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Existing topography, as well as aerial and ground-level photography show that Ditch 3 is a functioning component of the landfill, which likely only flows immediately after rain events.

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 “Wetland and Stream Delineation Survey Figure 4”, prepared by LaBella, dated April 2021, and last revised April 21, 2021; wetland and upland data sheets dated September 11, 2020; and ground level photographs taken on September 11, 2020, and April 20, 2021.*

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

Data sheets prepared by the Corps: *Title(s) and/or date(s).*

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- Photographs: *Aerial dated April 16, 2016, acquired from Google Earth. Ground level photographs dated September 11, 2020, and April 20, 2021.*
- 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: *Title(s) and/or date(s).*
- 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 # 36111C0790E

- 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 April 16, 2016. According to the APT, April 16, 2016, was drier than normal.
 - b. The consultant provided wetland and stream data sheets that were generated during their site visit of September 11, 2020. The APT for that date indicates that hydrologic conditions were drier than normal.
 - c. The consultant provided color photographs of the site, dated September 11, 2020, and April 20, 2021. The APT shows that drier than normal conditions existed on both dates.
- C. Additional comments to support AJD:** N/A or provide additional discussion as appropriate.
- a. The aerial photograph from April 16, 2016, clearly shows all mapped water features.
 - b. The consultant-provided data sheets appear to support the mapped limits of the water features on site.
 - c. The consultant-provided color photographs appear to support the mapped limits of the water features on site.

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