



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): 15-March-2021

ORM Number: NAN-2020-01057-WCO

Associated JDs: N/A

Review Area Location¹:

State/Territory: NJ City: Lyndhurst County/Parish/Borough: Bergen County

Center Coordinates of Review Area: Latitude 40.801829 Longitude -74.10218

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
Hackensack	3.493 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an	An inlet and outlet to an underground culvert was observed and photographed by the applicant running

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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		artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	beneath Clay Avenue connecting the Site wetlands area to the adjacent Berry's Creek tributary. An outfall from the culvert was observed on the eastern side of Clay Avenue connecting the wetlands to the tidally influenced adjacent tributary. A check valve was observed on the western opening to the culvert nearest to on- Site wetlands. Water flow between the Site wetlands and Berry's Creek is tidally influenced and directly connected by the observed underground culvert beneath Clay Avenue.
Hackensack 2	1.98 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	An inlet and outlet to an underground culvert was observed and photographed by the applicant running beneath Clay Avenue connecting the Site wetlands area to the adjacent Berry's Creek tributary. An outfall from the culvert was observed on the eastern side of Clay Avenue connecting the wetlands to the tidally influenced adjacent tributary. A check valve was observed on the western opening to the culvert nearest to on- Site wetlands. Water flow between the Site wetlands and Berry's Creek is tidally influenced and directly connected by the observed underground culvert beneath Clay Avenue.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A	N/A	N/A	N/A

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: *Title(s) and date(s)*.

This information *is* sufficient for purposes of this AJD.

Rationale: drawing entitled "Alta/NSPS Land Title Survey Block 229, Lot 5 1201 Valley Brook Avenue, Township of Lyndhurst, Bergen County, State of New Jersey, Sheets 2 of 2", and dated December 18, 2020, prepared by Control Point Associates, Inc., dated December 18, 2020 and last revised January 8, 2021. Wetland Determination Forms for 1201 Valley Brook Avenue Sampling Points SB-1 through SB-17, dated December 16, 2020.

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

Photographs: Photographic Log, Valley Brook, Photographs 1-5 on March 24, 2020; photos 6-12, 16-20 and 22-56 on December 16, 2020; photos 13-15 on July 2, 2020 and photo 21 on May 12, 2020. Additional imagery and maps submitted February 25, 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.*

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- USDA NRCS Soil Survey: NRCS Soil Map, Bergen County, New Jersey (Figure 3 Web Soil Survey Map of Site Area) July 7, 2020.
- USFWS NWI maps: *Title(s) and/or date(s)*. Figure 2 NWI Map of Site, July 9, 2020
- USGS topographic maps: Weekhawken, Figure 1, site location, dated July 6, 2020

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	N/A.

B. Typical year assessment(s): NA

C. Additional comments to support AJD: The nearest natural water course to the site wetlands is Berry's Creek. The Site wetlands are connected to Berry's Creek via an unnamed tributary classified as FW2-NT/SE2, according to New Jersey Department of Environmental Protection (NJDEP) Geoweb database. The NJDEP Water Quality Standards Guidance (7:9B) describes the SE2 classification as saline estuarine waters whose designated uses are listed in N.J.A.C. 7:9B-1.12(e). The NJDEP Water Quality Standards Guidance (7:9B) also states, "FW2-NT/SE1 (or a similar designation that combines two classifications) means a waterway in which there may be a salt water/freshwater interface.

The adjacent estuarine wetlands and open waters on the site have a connection through an observed (by the applicant) storm drain/catch basin adjacent to the site wetland area, located along Clay Avenue, which was photographed. On the site location several stormwater drains were observed in the vicinity of the Site property and designated wetlands complex. A total of three stormwater drains were observed along Valley Brook Avenue and Polito Avenue, bordering the wetlands complex situated at the rear of the property connected with wetlands. The stormwater drain observed along Polito Avenue conducts waters from the roads to the wetland complex through a 20-foot culvert. The two stormwater drains observed along Valley Brook Avenue, approximately 200-feet from Polito Avenue, are assumed to drain water towards the southeast through an underground culvert. One outfall was observed along Valley Brook Avenue, confirming drainage of stormwater into the wetlands on site.

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