



DEPARTMENT OF THE ARMY
NEW YORK DISTRICT, CORPS OF ENGINEERS
JACOB K. JAVITS FEDERAL BUILDING
26 FEDERAL PLAZA, 16TH FLOOR
NEW YORK, NEW YORK 10278-0090

CENAN-R-M

November 20, 2025

MEMORANDUM FOR RECORD

SUBJECT: US Army Corps of Engineers (Corps) Approved Jurisdictional Determination in accordance with the "Revised Definition of 'Waters of the United States'"; (88 FR 3004 (January 18, 2023) as amended by the "Revised Definition of 'Waters of the United States'; Conforming" (8 September 2023) ,¹ NAN-2025-00818-MBR

BACKGROUND. An Approved Jurisdictional Determination (AJD) is a Corps document stating the presence or absence of waters of the United States on a parcel or a written statement and map identifying the limits of waters of the United States on a parcel. AJDs are clearly designated appealable actions and will include a basis of JD with the document.² AJDs are case-specific and are typically made in response to a request. AJDs are valid for a period of five years unless new information warrants revision of the determination before the expiration date or a District Engineer has identified, after public notice and comment, that specific geographic areas with rapidly changing environmental conditions merit re-verification on a more frequent basis.³

On January 18, 2023, the Environmental Protection Agency (EPA) and the Department of the Army ("the agencies") published the "Revised Definition of 'Waters of the United States,'" 88 FR 3004 (January 18, 2023) ("2023 Rule"). On September 8, 2023, the agencies published the "Revised Definition of 'Waters of the United States'; Conforming", which amended the 2023 Rule to conform to the 2023 Supreme Court decision in *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023) ("*Sackett*").

This Memorandum for Record (MFR) constitutes the basis of jurisdiction for a Corps AJD as defined in 33 CFR §331.2. For the purposes of this AJD, we have relied on Section 10 of the Rivers and Harbors Act of 1899 (RHA),⁴ the 2023 Rule as amended, as well as other applicable guidance, relevant case law, and longstanding practice in evaluating jurisdiction.

1. SUMMARY OF CONCLUSIONS.

¹ While the Revised Definition of "Waters of the United States"; Conforming had no effect on some categories of waters covered under the CWA, and no effect on any waters covered under RHA, all categories are included in this Memorandum for Record for efficiency.

² 33 CFR 331.2.

³ Regulatory Guidance Letter 05-02.

⁴ USACE has authority under both Section 9 and Section 10 of the Rivers and Harbors Act of 1899 but for convenience, in this MFR, jurisdiction under RHA will be referred to as Section 10.

CENAN-R-M

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAN-2025-00818-MBR

- a. Provide a list of each individual feature within the review area and the jurisdictional status of each one (i.e., identify whether each feature is/is not a water of the United States and/or a navigable water of the United States).
 - i. Wetlands A –jurisdictional, Section 404
 - ii. Wetlands B - jurisdictional, Section 404
 - iii. Wetlands C - jurisdictional, Section 404
 - iv. Pond 1 - jurisdictional, Section 404
 - v. Tributary 1 - jurisdictional, Section 404
 - vi. Tributary 1.1 - jurisdictional, Section 404
 - vii. Tributary 2 - jurisdictional, Section 404
 - viii. Tributary 2.1 - jurisdictional, Section 404
 - ix. Drainage Channel – non-jurisdictional

2. REFERENCES.

- a. “Revised Definition of ‘Waters of the United States,’” 88 FR 3004 (January 18, 2023) (“2023 Rule”)
- b. “Revised Definition of ‘Waters of the United States’; Conforming” 88 FR 61964 (September 8, 2023))
- c. *Sackett v. EPA*, 598 U.S., 143 S. Ct. 1322 (2023)
- d. “Memorandum To the Field Between the U.S. Department Of The Army, U.S. Army Corps Of Engineers And The U.S. Environmental Protection Agency Concerning The Proper Implementation Of ‘Continuous Surface Connection’ Under The Definition Of “Waters Of The United States” Under The Clean Water Act” (March 12, 2025)

3. REVIEW AREA.

- a. The review area consists of the Palisades Premier Conference Center at 334 US-9W, in the Town of Orangetown, Rockland County, New York. The conference center grounds are approximately 106 acres in size and includes a large building for hosting conferences, one for lodging, expansive parking areas, a large impounded open-water feature, some manicured lawn and garden areas, while the majority of the site is relatively undisturbed second-growth forest areas. The late summer had been unusually dry (about 9 inches below average annual rainfall) and therefore field conditions represented somewhat drier conditions than normal.

4. NEAREST TRADITIONAL NAVIGABLE WATER (TNW), THE TERRITORIAL SEAS, OR INTERSTATE WATER TO WHICH THE AQUATIC RESOURCE IS CONNECTED.
 - a. Hudson River
5. FLOWPATH FROM THE SUBJECT AQUATIC RESOURCES TO A TNW, THE TERRITORIAL SEAS, OR INTERSTATE WATER.
 - a. The onsite wetlands drain into the adjacent stream reaches, which in turn flow to the west under the Palisades Interstate Parkway into the Sparkill Creek. The Sparkill Creek flows north-east to the confluence with the Hudson River.
6. SECTION 10 JURISDICTIONAL WATERS⁵: Describe aquatic resources or other features within the review area determined to be jurisdictional in accordance with Section 10 of the Rivers and Harbors Act of 1899. Include the size of each aquatic resource or other feature within the review area and how it was determined to be jurisdictional in accordance with Section 10.⁶ N/A
7. SECTION 404 JURISDICTIONAL WATERS: Describe the aquatic resources within the review area that were found to meet the definition of waters of the United States in accordance with the 2023 Rule as amended, consistent with the Supreme Court's decision in *Sackett*. List each aquatic resource separately, by name, consistent with the naming convention used in section 1, above. Include a rationale for each aquatic resource, supporting that the aquatic resource meets the relevant category of "waters of the United States" in the 2023 Rule as amended. The rationale should also include a written description of, or reference to a map in the administrative record that shows, the lateral limits of jurisdiction for each aquatic resource, including how that limit was determined, and incorporate relevant references used. Include the size of each aquatic resource in acres or linear feet and attach and reference related figures as needed.
 - a. Traditional Navigable Waters (TNWs) (a)(1)(i): N/A
 - b. The Territorial Seas (a)(1)(ii): N/A

⁵ 33 CFR 329.9(a) A waterbody which was navigable in its natural or improved state, or which was susceptible of reasonable improvement (as discussed in § 329.8(b) of this part) retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions.

⁶ This MFR is not to be used to make a report of findings to support a determination that the water is a navigable water of the United States. The district must follow the procedures outlined in 33 CFR part 329.14 to make a determination that water is a navigable water of the United States subject to Section 10 of the RHA.

CENAN-R-M

SUBJECT: 2023 Rule, as amended, Approved Jurisdictional Determination in Light of *Sackett v. EPA*, 143 S. Ct. 1322 (2023), NAN-2025-00818-MBR

c. Interstate Waters (a)(1)(iii): N/A

d. Impoundments (a)(2): N/A

e. Tributaries (a)(3):

- a. Tributary 1 – (41.01863600 -73.92355800), 3,533 linear feet, seasonal RPW, located in the center of the property, flows through a culvert under an onsite road, drains west offsite into Sparkill Creek
- b. Tributary 1.1 – (41.02002400 -73.92027100), 277 linear feet, seasonal RPW, located in the north-central portion of the property
- c. Tributary 2 – (41.01666200 -73.92380400), 1,503 linear feet, seasonal RPW, located in the south-west portion of the property, flows through two culverts under an onsite road, drains west through a culvert, offsite into Sparkill Creek
- d. Tributary 2.1 – (41.01627900 -73.92450400), 334 linear feet, seasonal RPW, located in the south-west portion of the property, drains into Tributary 2

f. Adjacent Wetlands (a)(4):

- a. Wetlands A – (41.01946300 -73.92040100), 0.12 acres emergent riparian wetlands, located in the center of the property, immediately adjacent Pond 1
- b. Wetlands B – (41.02039760 -73.91974740), 0.01 acres, forested riparian wetlands, located in the north-central portion of the property along the property boundary, adjacent tributary 1.1, drains into Tributary 1.1 through a culvert
- c. Wetlands C – (41.02043100 73.91718200), 1.14 acres, forested riparian wetlands, located in the north-east corner of the property, immediately adjacent Tributary 1

g. Additional Waters (a)(5):

- a. Pond 1 – (41.01870500 -73.92310200), 3.02 acres, located in the center of the property, impoundment on Tributary 1

8. NON-JURISDICTIONAL AQUATIC RESOURCES AND FEATURES

- a. Describe aquatic resources and other features within the review area identified in the 2023 Rule as amended as not “waters of the United States” even where they otherwise meet the terms of paragraphs (a)(2) through (5). Include the type of excluded aquatic resource or feature, the size of the aquatic resource or feature within the review area and describe how it was determined to meet one of the exclusions listed in 33 CFR 328.3(b).⁷ N/A
 - b. Describe aquatic resources and features within the review area that were determined to be non-jurisdictional because they do not meet one or more categories of waters of the United States under the 2023 Rule as amended (e.g., tributaries that are non-relatively permanent waters; non-tidal wetlands that do not have a continuous surface connection to a jurisdictional water).
 - a. Drainage Channel – (41.01592100 -73.92055700), 416 linear feet, non-RPW, with no apparent OHWM or bank-full channel, located in the south-central portion of the property along the property boundary
9. DATA SOURCES. List sources of data/information used in making determination. Include titles and dates of sources used and ensure that information referenced is available in the administrative record.
- a. Field Site Visit and photographs taken on September 16, 2025.
 - b. Delineation drawing entitled “ *Waters of the U.S. Map*”, prepared by Capital Environmental Consultants, Inc., dated August 15, 2025
 - c. Aquatic resource delineation report entitled “*U.S. Army Corps of Engineers Wetland Delineation Report*,” prepared Capital Environmental Consultants, Inc., dated August 2025
 - d. USGS 7.5 Minute Quadrangle: Nyack, NY Topographic Map (Figure 1), as part of Aquatic resource delineation report, dated August 2025.
 - e. NWI and NYSDEC Mapped Wetlands (Figures 16 & 17), as part of Aquatic resource delineation report, dated August 2025.
 - f. NRCS Soil Boundary Map (Figure 19), as part of Aquatic resource delineation report, dated August 2025.

⁷ 88 FR 3004 (January 18, 2023)

CENAN-R-M

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10. OTHER SUPPORTING INFORMATION. N/A

11. NOTE: The structure and format of this MFR were developed in coordination with the EPA and Department of the Army. The MFR's structure and format may be subject to future modification or may be rescinded as needed to implement additional guidance from the agencies; however, the approved jurisdictional determination described herein is a final agency action.

