



DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, BUFFALO DISTRICT
1776 NIAGARA STREET
BUFFALO, NEW YORK 14207-3199

October 23, 2020

Regulatory Branch

SUBJECT: Acceptance of Wetland Delineation, Department of the Army Processing No. LRB-2018-00708.

Telco Construction
Jim Milks
500 Buffalo Road
East Aurora, NY 14052

Dear Mr. Milks:

This pertains to a delineation submitted on your behalf by Earth Dimensions, Inc. for a jurisdictional determination for a 16.86-acre parcel located at 780 Reserve Road, in the Town of West Seneca, Erie County, NY.

The Corps of Engineers regulatory responsibilities under Section 404 of the Clean Water Act (CWA) establishes jurisdiction over the discharge of dredged or fill material into waters of the United States, including wetlands.

The wetland delineation submitted confirms that there are no wetlands/waters under Federal jurisdiction present on the property, as shown on the attached drawings. This verification was confirmed on October 6, 2020 and will remain valid for a period of five (5) years from the date of this correspondence unless new information warrants revision of the delineation before the expiration. At the end of this period, a new wetland delineation will be required if a project has not been completed on this property and additional impacts are proposed for waters of the United States. Further, this delineation/determination has been conducted to identify the limits of the Corps CWA jurisdiction for the particular site identified in this request. This delineation/determination may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are United States Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs, you should request a certified wetland determination from the local office of the Natural Resource Conservation Service prior to starting work.

I have determined that there is no clear surface water connection or ecological continuum between Wetlands W1, W2, W3 and W4 on the parcel and a surface tributary system to a navigable water of the United States. Based upon my review of the submitted delineation and on-site observations, I have determined that the aquatic resources on the subject parcel are not waters of the United States as noted on the attached Jurisdictional Determination (JD) form. Therefore, the resources are not regulated under Section 404 of the CWA. Accordingly,

Regulatory Branch

SUBJECT: Acceptance of Wetland Delineation, Department of the Army Processing No. LRB-2018-00708

Department of the Army authorization is not required if you propose a discharge of dredged or fill material in this area.

Finally, this letter contains an approved JD for the subject parcel. If you object to this determination, you may request an administrative appeal under Corps regulations at 33 CFR Part 331. Enclosed you will find a Notification of Appeal Process (NAP) fact sheet and Request for Appeal (RFA) form. If you request to appeal the above determination, you must submit a completed RFA form within 60 days of the date on this letter to the Great Lakes/Ohio River Division Office at the following address:

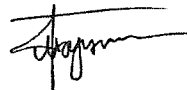
Jacob Siegrist
Regulatory Appeals Review Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10-714
Cincinnati, Ohio 45202-3222
Phone: 513-684-2699 Fax: 513-684-2460

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete; that it meets the criteria for appeal under 33 C.F.R. part 331.5, and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by December 7, 2020.

It is not necessary to submit an RFA to the Division office if you do not object to the determination in this letter.

Questions pertaining to this matter should be directed to me at (716) 879-4296 by writing to the following address: U.S. Army Corps of Engineers Regulatory Branch 1776 Niagara Street, Buffalo, NY 14207 or by e-mail at: Mikhail.A.Boutsko@usace.army.mil.

Sincerely,



Mikhail Boutsko
Biologist

Ecc: Scott Livingstone (Earth Dimensions, Inc.)
Enclosures

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Telco Construction		File Number: LRB-2018-00708	Date: October 6, 2020
Attached is:		See Section below	
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
X	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Mikhail Boutsko
U.S. Army Corps of Engineers
1776 Niagara Street
Buffalo, New York 14207
Mikhail.A.Boutsko@usace.army.mil
716-879-4269

If you only have questions regarding the appeal process you may also contact:

Jacob Siegrist
Regulatory Appeals Review Officer
US Army Corps of Engineers
Great Lakes and Ohio River Division
550 Main Street, Room 10-714
Cincinnati, Ohio 45202-3222
Phone: 513-684-2699 Fax: 513-684-2460

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:



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): 06-OCT-2020
ORM Number: LRB-2018-00708
Associated JDs: N/A
Review Area Location¹:
State/Territory: NY City: County/Parish/Borough: Erie County
Center Coordinates of Review Area: Latitude 42.81442 Longitude -78.73433

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 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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
2018-00708 (W1)	3.251 acres	(b)(1) Non-adjacent wetland	W1 is a 3.251 acre PSS depressional wetland, located in the center of the property (extending east to west), with no connection to an a(1)-a(3) water. The entire perimeter of the wetland on the property was walked on the day of the site visit (8/7/2018). All resources reviewed support the determination that W1 does not abut an a(1)-a(3) water, is not separated and does not contribute flow through a natural or man-made feature. W1 is located over 700 feet north of an a(2) water, separated by a road and situated approximately 10 feet up gradient. There is nearly zero percent chance of flooding from the a(2) water in any year (USDA Web Soil Survey). Review of the historical aerials did not show any inundation throughout the year by an a(1)-a(3) water. Therefore it is not adjacent to an a(1)-a(3) water. W1 appears to potentially continue off site to the east and to the south. To the south is a residential property with mowed lawn, showing no existing wetland characteristics. To the east, there is a potential for the wetland to continue off site and the size could not be determined, however there is mowed/maintained land approximately 100 feet to the east of the delineated property boundary that did not show any potential wetland characteristics when reviewing aerial photography. Furthermore there were no observed connections present to an a(1)-a(3) water to the east or to the south.
2018-00708 (W2)	0.828 acres	(b)(1) Non-adjacent wetland	W2 is a 0.828 acre PFO depressional wetland, located on the southern tip of the property, with no connection to an a(1)-a(3) water observed. The entire perimeter of the wetland on the property was walked on the day of the site visit (8/7/2018). All resources reviewed support the determination that W2 does not abut an a(1)-a(3) water, is not separated and does not contribute flow through a natural or man-made feature. W2 is located over 600 feet north of an a(2) water, separated by a road and situated approximately 10 feet up gradient. There is nearly zero percent chance of flooding from the a(2) water in any year (USDA Web Soil Survey). Review of the historical aerials did not show any inundation throughout the year by an a(1)-a(3) water. Therefore it is not adjacent to an a(1)-a(3) water. W2 appears to possibly extend off site to the east and west. To the west there is a residential development with mowed/maintained lawn and no signs of a continuing wetland or possible connections to an a(1)-a(3) water. To the east there is potential of wetland extending off

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			site, however same conditions as mentioned above with W1 exist.
2018-00708 (W3)	3.997 acres	(b)(1) Non-adjacent wetland	W3 is a 3.997 acre predominantly PSS depressional wetland located in the northern section of the property, with no connection to an a(1)-a(3) water. The entire perimeter of the wetland on the property was walked on the day of the site visit (8/7/2018). All resources reviewed support the determination that W3 does not abut an a(1)-a(3) water, is not separated and does not contribute flow through a natural or man-made feature. W3 is located over 1,000 feet north of an a(2) water, separated by a road and situated approximately 10 feet up gradient. There is nearly zero percent chance of flooding from the a(2) water in any year (USDA Web Soil Survey). Review of the historical aerials did not show any inundation throughout the year by an a(1)-a(3) water. Therefore it is not adjacent to an a(1)-a(3) water.
2018-00708 (W4)	0.193 acres	(b)(1) Non-adjacent wetland	W4 is a 0.193 acre PFO depressional wetland, located on the western edge of the property, with no connection to an a(1)-a(3) water observed. The entire perimeter of the wetland on the property was walked on the day of the site visit (8/7/2018). All resources reviewed support the determination that W4 does not abut an a(1)-a(3) water, is not separated and does not contribute flow through a natural or man-made feature. W4 is located over 1,100 feet north of an a(2) water, separated by a road and situated approximately 10 feet up gradient. There is nearly zero percent chance of flooding from the a(2) water in any year (USDA Web Soil Survey). Review of the historical aerials did not show any inundation throughout the year by an a(1)-a(3) water. Therefore it is not adjacent to an a(1)-a(3) water.

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: *Wetland delineation named "780 Reserve Road" was conducted by Earth Dimensions, Inc. and was submitted on June 6, 2018, revised and resubmitted on September 30, 2020 with accurate, complete data sheets, photographs, NWI map, soil survey map with hydric soil information*

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 and other: Google Earth pro (2020), ESRI, Earth Dimensions Inc (2018).*

Corps Site visit(s) conducted on: *08/07/2018*

Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s).*

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: Web Soil Survey reviewed.
- USFWS NWI maps: USFWS online map reviewed.
- USGS topographic maps: Orchard Park, New York Quad; 24k:1.

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	ORM2 maps.
State/Local/Tribal Sources	NYS DEC Environmental Resource Mapper reviewed. No State regulated wetlands present within the vicinity of the delineated parcel
Other Sources	N/A.

B. Typical year assessment(s): The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index and the University of Delaware WebWIMP.

Evaluation of aerial photographs, delineation report and results from the APT indicate that no signs of inundation of the wetlands from a tributary occurred. Two of the years evaluated had drier than normal conditions, one year was under normal conditions but had severe wetness under the PDSI Class and there was still no inundation visible. As noted above, the nearest tributary is over 600 feet from the closest delineated wetland and the site is located approximately 10 feet up gradient as per topographic map.

Latitude	Longitude	Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
42.81442	-78.7343	9/8/2002	-1.63	Mild drought	Wet Season	8	Drier than Normal
42.81442	-78.7343	3/31/2005	2.07	Moderate wetness	Wet Season	9	Drier than Normal
42.81442	-78.7343	5/3/2009	2.3	Moderate wetness	Wet Season	14	Normal Conditions
42.81442	-78.7343	10/5/2011	3.41	Severe wetness	Wet Season	13	Normal Conditions

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

42.81442	-78.7343	10/18/2016	0.81	Incipient wetness	Wet Season	10	Normal Conditions
42.81442	-78.7343	9/22/2018	0.78	Incipient wetness	Wet Season	11	Normal Conditions

C. Additional comments to support AJD: Evaluation of the on-site conditions as presented in the submittal and substantiated by the photographs and data summary sheets appear to be clear and straight-forward. The review area is 16.86 acres and does not present complicated details. The delineated parcel is surrounded by residential developments on all sides. A review of in-house resources, USDWS NWI Maps, USGS Quad Map, NRCS Web Soil Survey and NYSDEC Environmental Resource Mapper indicated no mapped wetlands or streams are located within the vicinity of the delineated parcel. During the field visit, it was determined that none of the wetlands had outlets leading to a connection to an a(1)-a(3) water. Wetlands W1 and W2 potentially extend off site, however, after review of available resources, no offsite connections to an a(1)-a(3) water were located. All resources reviewed support the determination that W1, W2, W3 and W4 do not directly abut an a(1)-a(3) water, are not separated from an a(1)-a(3) water by a natural or man-made feature, do not contribute to flow to an a(1)-a(3) water, are not inundated by flooding from an a(1)-a(3) water. Therefore, W1, W2, W3 and W4 are not jurisdictional waters of the United States.

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.

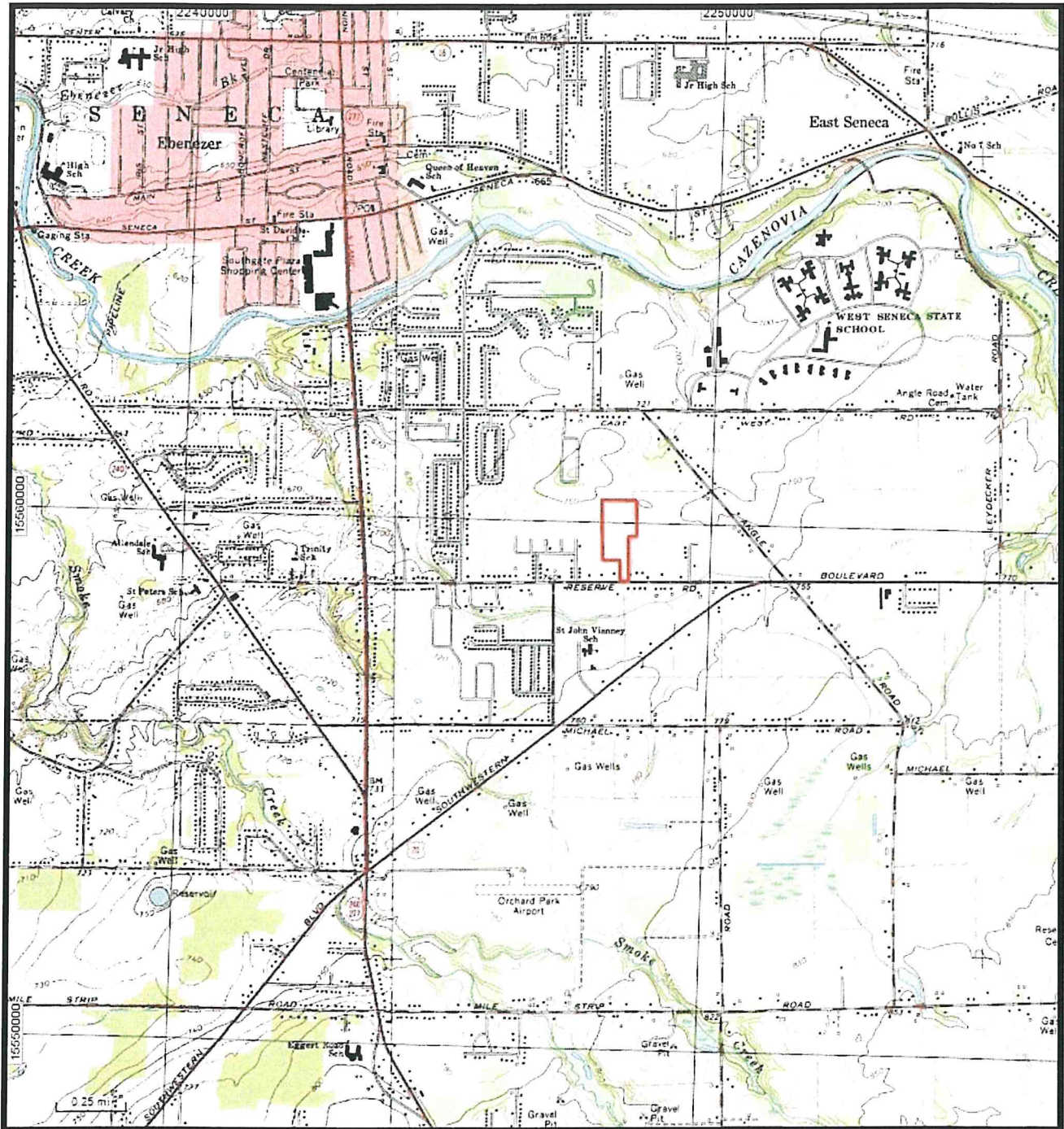


FIGURE 1: USGS 7.5 MINUTE TOPOGRAPHICAL MAP

Orchard Park Quadrangle / 2002 DeLorme

780 Reserve Road

Town of West Seneca, Erie County, New York

Telco Construction – 780 Reserve Road

D/A Processing No. 2018-00708

Erie County, New York

Quad: Orchard Park


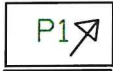


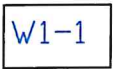
Sheet 1 of 2

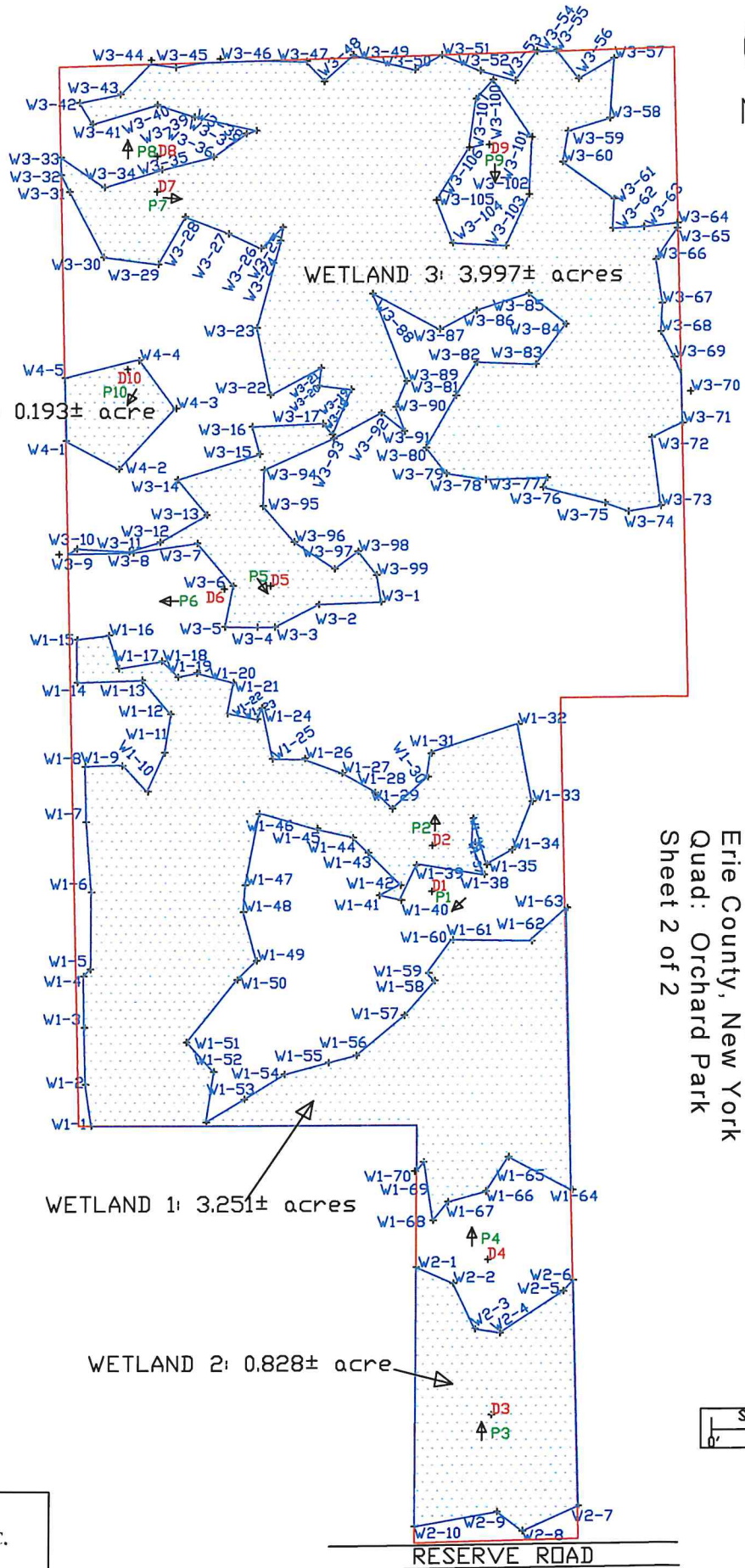
Figure 6: Wetland Delineation Map
780 Reserve Road

Town of West Seneca Erie County, New York



LEGEND

-  Wetland Area
-  Photo location
-  Data Point Location
-  Investigation Area
-  Wetland Flag



Telco Construction - 780 Reserve
Road
D/A Processing No. 2018-00708
Erie County, New York
Quad: Orchard Park
Sheet 2 of 2

Scale: as shown
Map Date: June 5, 2018 JMC/EDI Revised:
Base Map Provided By: GPS MAPPING
File Name: DD MAP.DWG
EDI Project Code: W1E18a

