



**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): 3/1/2021

ORM Number: NAE-2020-01593

Associated JDs: N/A

Review Area Location¹: State/Territory: Vermont City: St. Albans County/Parish/Borough: Franklin

Center Coordinates of Review Area: Latitude 44.796583 N Longitude -73.101403 W

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
Un-Named Tributary of Rugg Brook	2463 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Un-Named Tributary of Rugg Brook is a naturally occurring surface water channel that flows west off the site into Rugg Brook. Rugg Brook is a perennial stream that flows into Mill River that drains into Lake Champlain, a Traditional Navigable Water (TNW). See attached Figures 1, 2, 3 and 5. Jurisdiction is not severed at the two culverts (labeled in Figure 2) within the review area, as there is flow within a typical year.

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 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.



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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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
WETLAND A2	0.09	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A2 directly abuts the ordinary high water mark of the Un-Named Tributary of Rugg Brook, an (a)(2) water within the Review Area.
WETLAND A1	0.55	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A1 directly abuts the ordinary high water mark of the Un-Named Tributary of Rugg Brook, an (a)(2) water within the Review Area. Excludes Wetland A1 PC.
WETLAND A	12.0	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A directly abuts the ordinary high water mark of the Un-Named Tributary of Rugg Brook, an (a)(2) water within the Review Area. Excludes Wetland A PC.
WETLAND B	3.03	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland B directly abuts the ordinary high water mark of an (a)(2) water outside of the Review Area. This stream flows into the Un-Named Tributary of Rugg Brook that is within the Review Area. Based on aerial photos and information from the agent the Corps has determined that the portion of Wetland B that overlaps into the NRCS PC area has been abandoned. This portion of the field is wetland and has not been in agricultural use for over five years.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WETLAND A1 PC	0.08	acre(s)	(b)(6) Prior converted cropland.	This portion of Wetland A1 falls within the area determined to be Prior Converted Cropland by the Natural Resource Conservation Service (NRCS). This area is still in agricultural use. See Figures 2 and 4.
WETLAND A PC	0.46	acre(s)	(b)(6) Prior converted cropland.	This portion of Wetland A falls within the area determined to be Prior Converted Cropland by the NRCS. This area is still in agricultural use. See Figures 2 and 4.
WETLAND C	0.06	acre(s)	(b)(6) Prior converted cropland.	Wetland C entirely falls within the area determined to be Prior Converted Cropland by the NRCS. This area is still in agricultural use. See Figures 2 and 4.

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
WETLAND D	0.10	acre(s)	(b)(6) Prior converted cropland.	Wetland D entirely falls within the area determined to be Prior Converted Cropland by the NRCS. This area is still in agricultural use. See Figures 2 and 4.
WETLAND E	0.01	acre(s)	(b)(6) Prior converted cropland.	A portion of Wetland E falls within the area determined to be Prior Converted Cropland by the NRCS. This area is still in agricultural use. The remaining portion of Wetland E is not an (a)(4) wetland that abuts an (a)(1)-(a)(3) water. See Figures 2 and 4.

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: Existing condition site plan titled “Existing Conditions Wetlands Site Plan”, dated “June 11, 2020”, last revised “2/19/21”; Wetland Determination Data Forms prepared by Gilman & Briggs Environmental, dated “21 Apr 2020”.

This information is sufficient for purposes of this AJD.

Rationale: Based on review of the information submitted by the applicants agent the wetlands on the site were delineated using the methodology in the 1987 "Corps of Engineers Wetlands Delineation Manual" and Northcentral and Northeast Regional Supplement. The wetlands boundaries were field verified and accepted by the State Wetland Ecologist for Franklin County. Additionally the Corps visited this site in December 17, 2001 to review the property and discuss permit requirements. We have determined that the limits of the wetlands shown on the plans were consistent with conditions in the field and the wetland boundary is acceptable and sufficient for preparation of an AJD.

- Data sheets prepared by the Corps: N/A
- Photographs: Aerial: See Figures 6a-6e
- Corps site visit(s) conducted on: December 17, 2001
- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- USDA NRCS Soil Survey: N/A
- USFWS NWI maps: N/A
- USGS topographic maps: 1987 St. Albans 7.5 minute QUAD, 1:24,000, “LOCATION MAP” (dated “02/17/2021”)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	1987 St. Albans Vermont topographical map (Figure 1)
USDA Sources	Prior Converted Cropland determination done by NRCS (Figure 4), Stream Stats Map (Figure 5)
NOAA Sources	N/A.
USACE Sources	USACE Antecedent Precipitation Tool (Figure 7)



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Data Source (select)	Name and/or date and other relevant information
State/Local/Tribal Sources	Vermont Interactive Map Viewer (Figure 3)
Other Sources	Google Earth and Aerial Photos (Figure 6a-6e)

B. Typical year assessment(s): On 18 May 2020 the wetland consultant conducted a site visit of the review area and observed flowing water in the Un-Named Tributary of Rugg Brook. The APT report for 18 May 2020 indicates that at the time of the field visit drier than normal conditions exist during the dry season (Figure 7), which supports the conclusion that the stream is perennial and therefore an (a)(2) water. In a 17 February 2021 telephone conversation, the consultant indicated that the stream is perennial.

C. Additional comments to support AJD: This Approved Jurisdictional Determination (AJD) is based on review of information available on public, state, and federal web sites and information provided by the applicant’s engineer and wetland consultants.

The Un-Named Tributary of Rugg Brook is clearly identified in the 1987 St. Albans Vermont topographical map (Figure 1), on the existing conditions plan (Figure 2), the Vermont Interactive Map Viewer (Figure 3), and in Google Earth and aerial photographs (Figure 6a-6e). There are two culverts within the review area that connect all reaches of the Un-Named Tributary and carry flow within a typical year. There are no breaks in surface flow from this stream to Rugg Brook which flows into Mill River that drains directly into Lake Champlain, a Traditional Navigable Water. Based on information provided by the applicant’s wetland consultant, the stream is perennial and meets the definition of an (a)(2) tributary. Wetlands A, A1 and A2 directly abut the ordinary high water mark of this stream; therefore, these wetlands are jurisdictional (a)(4) adjacent wetlands. These palustrine scrub-shrub and emergent wetlands total about 550,300 sq. ft. (12.63 acres) in size, and excludes the delineated wetland areas extending into the Prior Converted Cropland (PC) area.

Within the Review Area Wetland B is a palustrine forested and emergent wetland about 132,051 sq. ft. (3.03 acres) in size, including the portion within the PC area. An area is no longer considered PC for purposes of the Clean Water Act when the area is abandoned and has reverted to wetland. Abandonment occurs when PC is not used for, or in support of, agricultural purposes at least in the immediately preceding five years. Based on aerial photos this area is considered abandoned. Wetland B directly abuts the ordinary high water mark of an unnamed intermittent stream that flows into the Un-Named Tributary of Rugg Brook. Therefore, this wetland is an (a)(4) adjacent wetland.

Wetlands C, D and E are similar in character and size (Figure 2). These palustrine emergent wetlands total about 7,425 sq. ft. (0.17 acre) in size. Wetlands C and D are entirely located within PC. Wetland E is located within PC and the right-of-way of the railroad track, and is not abutting or hydrologically connected to an (a)(1) – (a)(3) water. About 20,039 sq. ft. (0.46 acre) of Wetland A, 3,360 sq. ft. (0.08 acre) of Wetland A1 and 57,387 sq. ft. (1.32 acres) of Wetland B are within the areas designated PC by the NRCS. Therefore, Wetlands C, D, and E and portions of Wetland A, A1 and B are excluded features and are not jurisdictional waters of the U.S.



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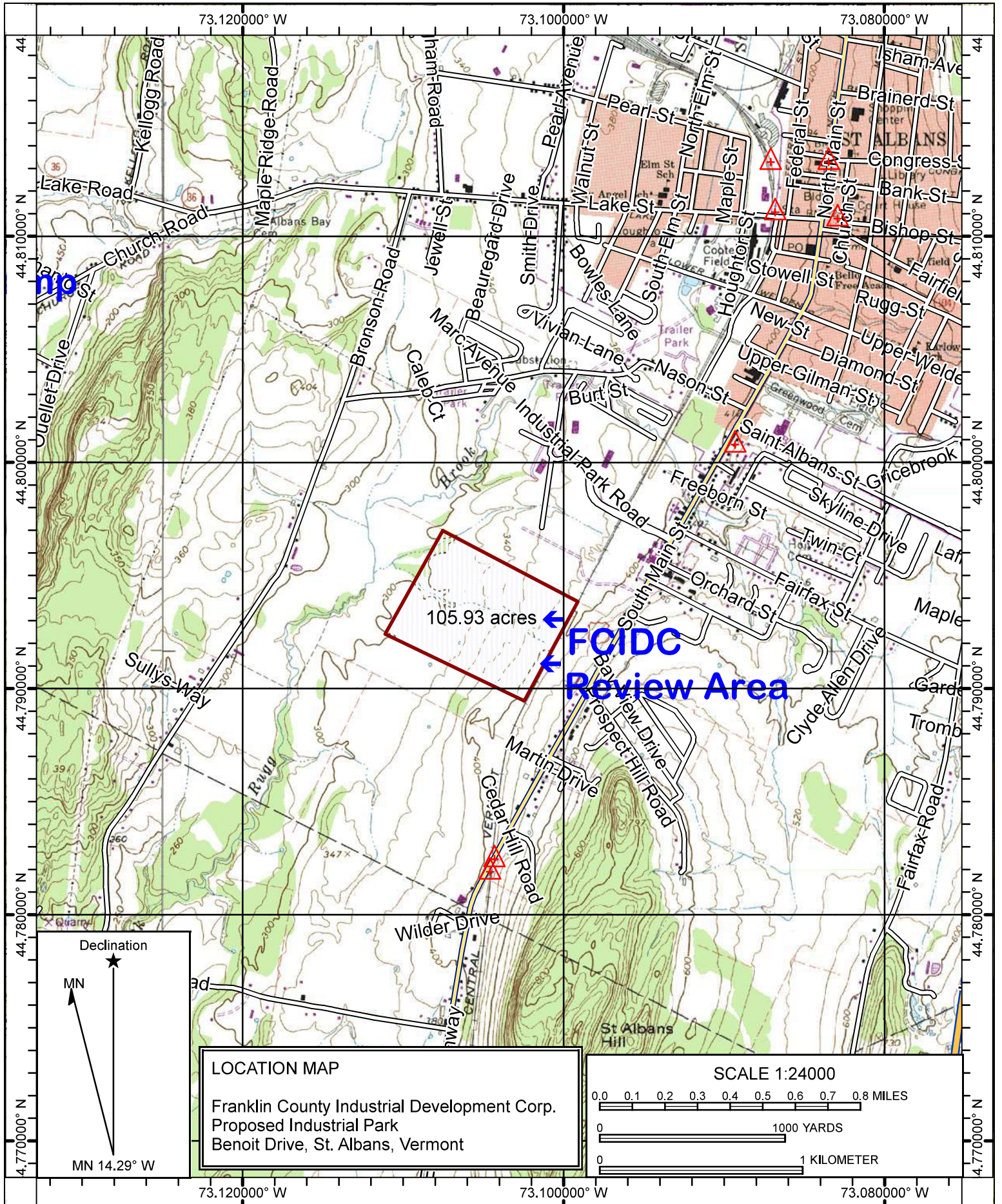
Michael S. Adams _____
Project Manager

Paul Minkin _____
NWPR AJD Team

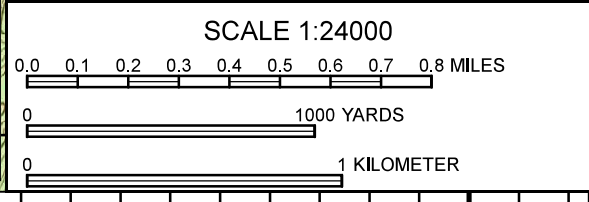
Frank J. DelGiudice _____
Branch Chief

Robert J. DeSista _____
PATs Chief

Tammy R. Turley _____
Chief Regulatory Division



LOCATION MAP
 Franklin County Industrial Development Corp.
 Proposed Industrial Park
 Benoit Drive, St. Albans, Vermont



Name: ST ALBANS
 Date: 02/17/21
 Scale: 1 inch = 2,000 ft.

Location: 44.793650° N, 73.104031° W
 File No.: NAE-2020-01593

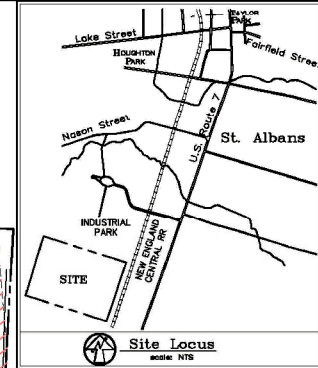
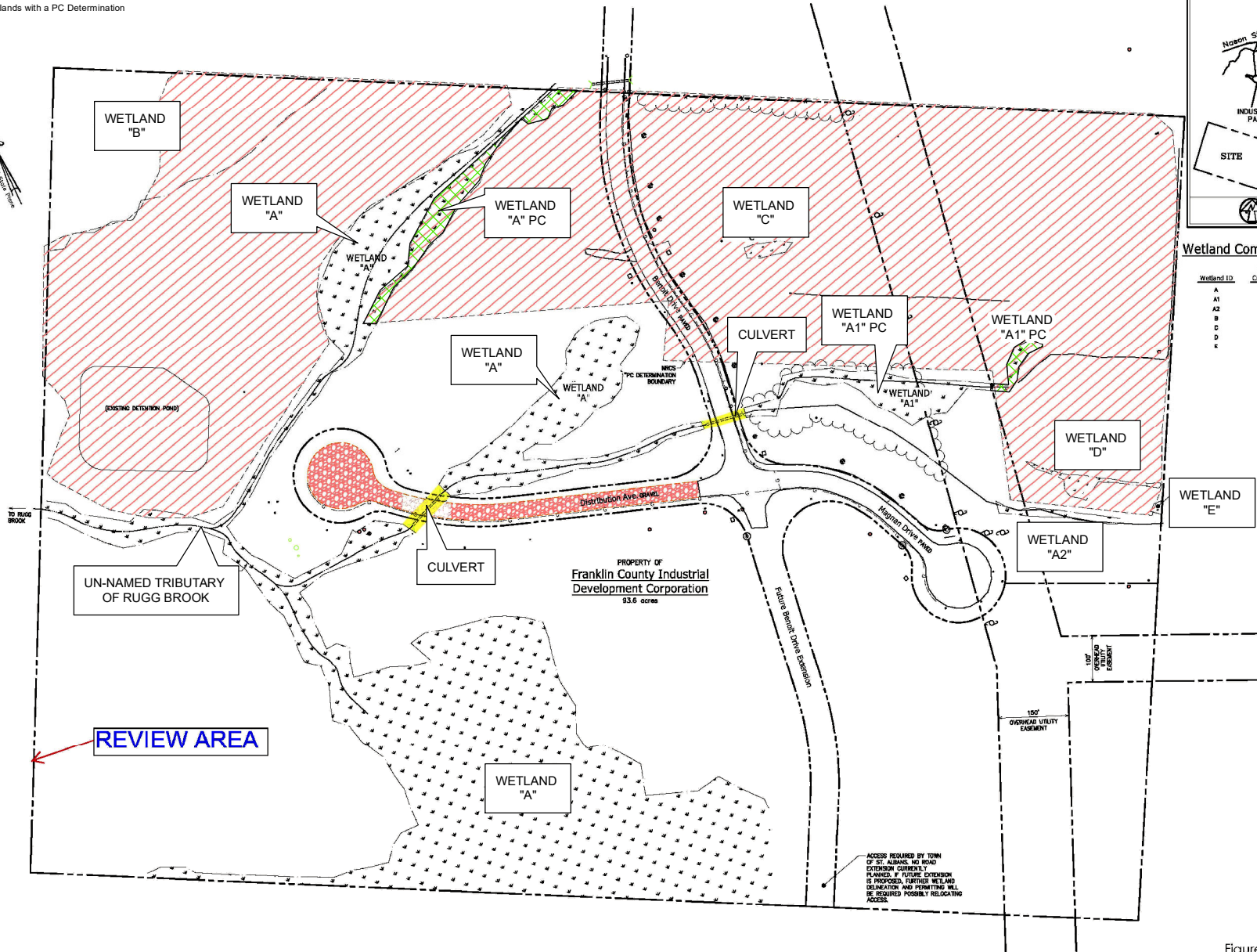
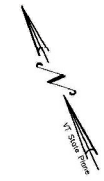
Figure 1

Datum: NAD27

Copyright (C) 2009 MyTopo

Access Drive Wetland Disturbance (W1)

- Previously Impacted Wetlands: 5,849sf (0.13ac)
- NRCS "Prior Converted Cropland"
- Building Envelope
- Wetlands with a PC Determination



Wetland Complex vs "PC" Determination

Wetland ID	Total Wetland Complex Size (sf)	Total Area of PC Determination With Wetland Complex (sf)
A	542,892sf	20,038sf
A1	27,115sf	3,360sf
A2	3,882sf	-
B	132,091sf	57,387sf
C	2,928sf	2,928sf
D	4,458sf	4,458sf
E	478sf	478sf

PROJECT: 99064-4
DATE: June 11, 2020
DESIGN: RHW
DRAWN: RHW
CHECKED: PG
APPROVED: PG

No. 000-000-0000
Rev. 000-000-0000

CCE
CONSULTING ENGINEERS, P.C.
300 Franklin St., 3rd Floor
St. Albans, Vermont 05478
www.cce-engineers.com

Existing Conditions
 Wetlands Site Plan
 Date Revised: 2/19/21
 PREPARED BY: RHW

Franklin County Industrial Development Corp.
 St. Albans, Vermont
 Proposed Industrial Expansion - Army Corps Wetland Impacts
 Benoit Drive
 St. Albans, VT

Figure 2

Army Corps - Wetland Impacts



D:\13189 - 3\Drawings\13189-3\13189-3-C100 - Access Drive Wetland Impacts - Existing Conditions Wetland.mxd - Army Corps.dwg, Date: 2/17/21, 8:38:57 AM



LEGEND
















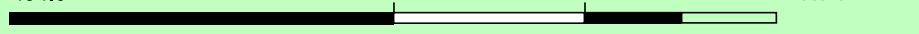
-  Parcels (standardized)
- Roads**
-  Interstate
-  US Highway; 1
-  State Highway
-  Town Highway (Class 1)
-  Town Highway (Class 2,3)
-  Town Highway (Class 4)
-  State Forest Trail
-  National Forest Trail
-  Legal Trail
-  Private Road/Driveway
-  Proposed Roads
- Stream/River**
-  Stream
-  Intermittent Stream
-  Town Boundary

Figure 3

NOTES

Map created using ANR's Natural Resources Atlas

434.0 0 217.00 434.0 Meters

 WGS_1984_Web_Mercator_Auxiliary_Sphere 1" = 712 Ft. 1cm = 85 Meters
 © Vermont Agency of Natural Resources THIS MAP IS NOT TO BE USED FOR NAVIGATION

DISCLAIMER: This map is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. ANR and the State of Vermont make no representations of any kind, including but not limited to, the warranties of merchantability, or fitness for a particular use, nor are any such warranties to be implied with respect to the data on this map.

1: 8,544
 February 17, 2021 



USDA-NRCS-NGCE & USDA-FSA-APFO



Prepared with assistance from USDA-NRCS

Figure 4



USDA NRCS Stream Stats

Figure 5

1995 Google Earth

Legend

-  Ben & Jerry's
-  Untitled Polygon

REVIEW AREA

Google Earth

Image U.S. Geological Survey


Figure 6a

1000 ft



2009 Google Earth

Legend

-  Ben & Jerry's
-  Untitled Polygon

REVIEW AREA

Google Earth

Image U.S. Geological Survey

Figure 6b



1000 ft



2015 Google Earth

Legend

-  Ben & Jerry's
-  Untitled Polygon

REVIEW AREA

Google Earth

Image © 2021 Maxar Technologies

Figure 6c

1000 ft



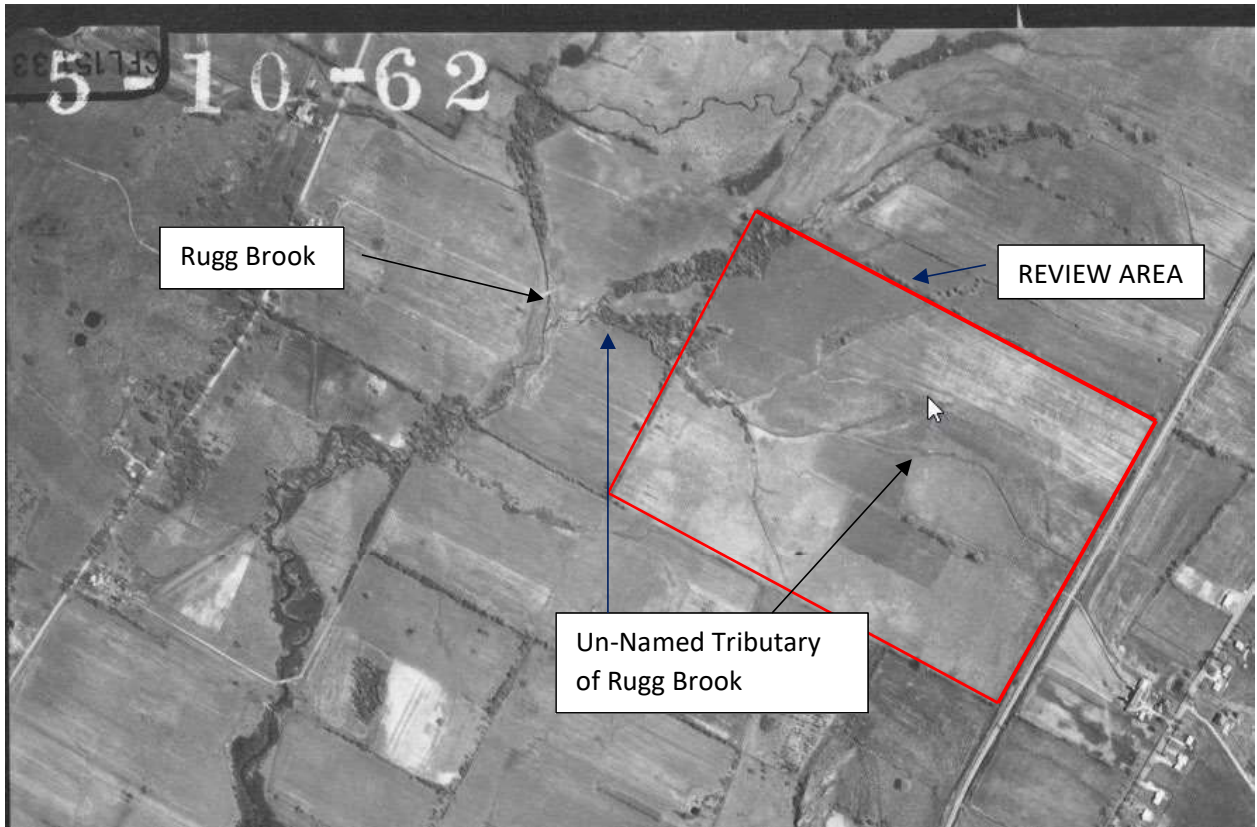
2018 Google Earth

Legend

-  Ben & Jerry's
-  Untitled Polygon

REVIEW AREA

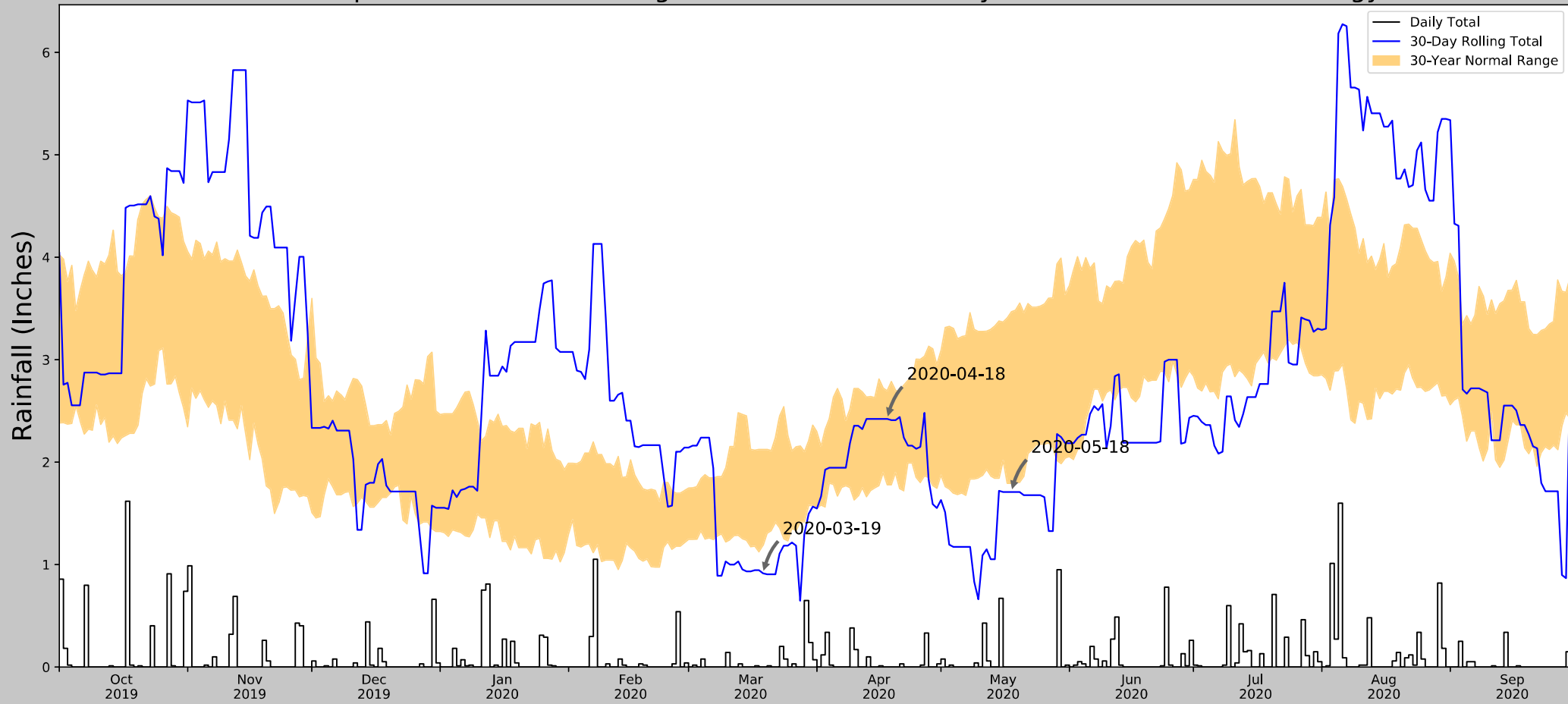




1962 Aerial Photo

Figure 6e

Antecedent Precipitation vs Normal Range based on NOAA's Daily Global Historical Climatology Network



Coordinates	44.793061, -73.105432
Observation Date	2020-05-18
Elevation (ft)	318.53
Drought Index (PDSI)	Normal
WebWIMP H ₂ O Balance	Dry Season

30 Days Ending	30 th %ile (in)	70 th %ile (in)	Observed (in)	Wetness Condition	Condition Value	Month Weight	Product
2020-05-18	1.794095	3.46811	1.708661	Dry	1	3	3
2020-04-18	1.779528	2.696457	2.42126	Normal	2	2	4
2020-03-19	1.187795	2.124803	0.913386	Dry	1	1	1
Result							Drier than Normal - 8




Figure and tables made by the
Antecedent Precipitation Tool
 Version 1.0

Written by Jason Deters
 U.S. Army Corps of Engineers

Weather Station Name	Coordinates	Elevation (ft)	Distance (mi)	Elevation Δ	Weighted Δ	Days (Normal)	Days (Antecedent)
S HERO	44.6264, -73.3031	109.908	15.06	208.622	9.919	11344	90
ST ALBANS RADIO	44.8592, -73.0911	379.921	4.623	61.391	2.364	8	0

Figure 7