



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): 11-DEC-2020

ORM Number: NAO-2007-03814

Review Area Location<sup>1</sup>:

State/Territory: VA City: County/Parish/Borough: Chesapeake city

Center Coordinates of Review Area: Latitude 36.782222 Longitude -76.317222

**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)<sup>2</sup>**

§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination
Tidal Wetland Line	7.5083 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Subject to the ebb and flood of daily tides.

**C. Clean Water Act Section 404**

Territorial Seas and Traditional Navigable Waters ((a)(1) waters)<sup>3</sup>

(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination
Tidal Wetland Line	7.5083 acres	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide	Subject to the ebb and flood of daily tides.

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
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<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

<sup>5</sup> 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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N/A	N/A	N/A	N/A
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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

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Isolated Wetland	0.0596 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet the paragraph (a)(1) through (a)(4) waters definitions.
Pond A	0.363 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Stormwater BMP dug entirely in previously delineated uplands. Purpose is to store and allow sediment to fall out of the stormwater that is directed into these ponds. No natural connection, nor is it ever flooded by an a(1)-a(4).
Pond B	0.6305 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Stormwater BMP dug entirely in previously delineated uplands. Purpose is to store and allow sediment to fall out of the stormwater that is directed into these ponds. No natural connection, nor is it ever flooded by an a(1)-a(4).
Pond C	0.7034 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff	Stormwater BMP dug entirely in previously delineated uplands. Purpose is to store and allow sediment to fall out of the stormwater that is directed into these ponds. No natural connection, nor is it ever flooded by an a(1)-a(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: *Michael Drive, Chesapeake, Dated: 11-8-2020 and 12-10-2020*
- This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *(aerial, Lidar, VGIN) Various years 1954-2020*
- Corps Site visit(s) conducted on: *November 3, 2020*
- Previous Jurisdictional Determinations (AJDs or PJDs): *NAO-2007-3814, Dated:9/7/2018*
- Antecedent Precipitation Tool: (Not Functioning during review)
- USDA NRCS Soil Survey
- USFWS NWI maps

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USGS topographic maps

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**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):** N/A or provide typical year assessment for each relevant data source

**C. Additional comments to support AJD:** This was a revision and expansion of a previously verified delineation. An additional parcel has been added to the review area. This additional parcel increased the area of tidal wetlands in the review area. New Stormwater BMP ponds have been constructed in uplands since the previous delineation and there is still an existing non-adjacent forested wetland within the review area. With these excluded features in the current review area, it was determined that an approved JD under the NWPR would serve the applicant and agencies best.

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