



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): 09-DEC-2020

ORM Number: NAO-2020-00731-ALC

Review Area Location¹:

State/Territory: VA City: Chesapeake

Center Coordinates of Review Area: Latitude 36.713204 Longitude -76.328765

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
Tidal TNW 01	0.9576 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	This water is subject to the ebb and flood of daily tides.

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
Tidal TNW 01	0.9576 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	This water is 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
Intermittent Stream 01	0.0753 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This water intermittently contributes surface water directly into an a(1) water during a typical year.
Jurisdictional	210 feet	(a)(2) Intermittent tributary	This water intermittently contributes surface water

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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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Ditch 01		contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	directly into an a(1) water during a typical year.
Non-Tidal TNW 01	0.305 acres	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This water intermittently contributes surface water directly into an a(1) water during a typical year.

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
PUB Wetland 02	0.4862 acres	a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This water contributes surface water directly into an a(2) at least once during a typical year.

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
PEM Wetland 03	0.018 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	There is no physical separation between the wetland and an a(1) or a(2) water.
PEM Wetland 12	0.0032 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	There is no physical separation between the wetland and an a(1) or a(2) water.
PFO Wetland 02	0.0279 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	There is no physical separation between the wetland and an a(1) or a(2) water.
PFO Wetland 05	0.025 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	There is no physical separation between the wetland and an a(1) or a(2) water.
Tidal Wetland 01	0.1306 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	There is no physical separation between the wetland and an a(1) or a(2) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Non-Jurisdictional Ditch 01	1286 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 02	29 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 03	178 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional	577 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.

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Ditch 04		ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	
Non-Jurisdictional Ditch 05	435 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 06	3705 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 07	1218 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 08	1135 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 09	174 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 10	106 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 11	66 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 12	672 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 13	410 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 14	320 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.

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		(c)(1)	
Non-Jurisdictional Ditch 15	389 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 16	178 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 17	183 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 18	72 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 19	481 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 20	621 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 21	75 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 22	220 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 23	960 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 24	295 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-	291 feet	(b)(5) Ditch that is not an (a)(1) or	Ditch was not a tributary, is not relocating a previous

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Jurisdictional Ditch 25		(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 26	112 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 27	371 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 28	889 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 29	765 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 30	981 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 31	835 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 32	646 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 33	372 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 34	228 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.
Non-Jurisdictional Ditch 35	170 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water	Ditch was not a tributary, is not relocating a previous tributary, and was not dug from an adjacent wetland.

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		that do not satisfy the conditions of (c)(1)	
PEM Wetland 01	1.9819 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PEM Wetland 02	0.587 acres	(b)(6) Prior converted cropland	Prior to December 23, 1985, this area was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. Site is still under production.
PEM Wetland 05	0.396 acres	(b)(6) Prior converted cropland	Prior to December 23, 1985, this area was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. Site is still under production
PEM Wetland 06	0.0644 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PEM Wetland 09	0.0093 acres	(b)(6) Prior converted cropland	Prior to December 23, 1985, this area was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. Site is still under production
PEM Wetland 10	0.0054 acres	(b)(6) Prior converted cropland	Prior to December 23, 1985, this area was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. Site is still under production
PFO Wetland 01	0.1166 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PFO Wetland 03	0.0266 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PFO Wetland 04	0.1198 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PFO Wetland 06	0.123 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PFO Wetland 07	0.0345 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
PFO Wetland 08	0.2365 acres	(b)(1) Non-adjacent wetland	The water feature onsite is hydrologically isolated and physically remote and does not meet any of the paragraph (a)(1) through (a)(4) waters definitions.
Pit 01	6.2 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	Site was being farmed prior to excavation for sand.

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PUB Wetland 01	0.2579 acres	(b)(6) Prior converted cropland	Prior to December 23, 1985, this area was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. Site is still under production
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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 Dominion West, WSSI #30934.01, Figures 1-3, dated December 8, 2020*
- This information is sufficient for purposes of this AJD.
- ___ Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *(Aerial photos various years, onsite photos during delineation)*
- Corps Site visit(s) conducted on: *May 5, 2020.*
-
- ___ Previous Jurisdictional Determinations (AJDs or PJDs): *ORM Number(s) and date(s)*.
- ___ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Title(s) and/or date(s)*.
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *Title(s) and/or date(s)*.
-

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. Both Corps and agent agree that the year is typical.

C. Additional comments to support AJD: A site visit was conducted in May of this year. An approved JD was requested due to the existence of wetlands shown on a delineation map that was not formally confirmed by the Corps. WSSI was hired to evaluate the previous delineation under the NWPR. Aerial photos dating back to 1955 to the present were used to identify areas that have been farmed within the last 5 years. These photos, USGS Quadsheets, NRCS Soil Maps, and USDA participation

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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information was used to determine if ditches and impoundments were dug from adjacent wetlands or tributaries as well as when the area began being farmed.

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.

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