



**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): 11/5/2020  
 ORM Number: NAO-2014-01074  
 Associated JDs: NAO-2014-0967  
 Review Area Location<sup>1</sup>: State/Territory: Virginia City: Chesapeake County/Parish/Borough: Enter.  
 Center Coordinates of Review Area: Latitude 36.70381 Longitude -76.30527

**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
N/A.	N/A.	N/A.	N/A.

**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
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.

<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 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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**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
State Surface Waters	2.27 acre(s)	(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).	The ditch did not and does not relocate a tributary, was not constructed in a tributary and was not constructed in an adjacent wetland. Therefore, this ditch does not meet the definition of a tributary (c)(12)

**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: [Waters of the US Determination Shillelagh Rd. Drainage Improvements \(9-22-20\)](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Ground photos submitted in original request. NRCS 1937 Aerial submitted by applicant.](#)
- Corps site visit(s) conducted on: [October 2, 2018](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [NAO-2014-01074 PJD issued January 4, 2019. Expanded project area PJD issued on May 8, 2019.](#)
- 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
<a href="#">USGS Sources</a>	<a href="#">1902 Topographic Map</a>
<a href="#">USDA Sources</a>	<a href="#">N/A.</a>
<a href="#">NOAA Sources</a>	<a href="#">N/A.</a>
<a href="#">USACE Sources</a>	<a href="#">N/A.</a>
<a href="#">State/Local/Tribal Sources</a>	<a href="#">N/A.</a>
<a href="#">Other Sources</a>	<a href="#">Digital Elevation Map developed by Corps using publicly available LiDAR data. Böye, H., Buchholtz, L. V. &amp; Tanner, B. (1859) A map of the state of Virginia, constructed in conformity to law from the late surveys authorized by the</a>

<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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Data Source (select)	Name and/or date and other relevant information
	<p>legislature and other original and authentic documents. [Virginia: s.n] [Map] Retrieved from the Library of Congress, <a href="https://www.loc.gov/item/99439988/">https://www.loc.gov/item/99439988/</a>. Nicholson, W. L. &amp; Fillmore, M. (1864) Map of eastern Virginia. [Washington?: Lith. by Chas. G. Krebs] [Map] Retrieved from the Library of Congress, <a href="https://www.loc.gov/item/99448871/">https://www.loc.gov/item/99448871/</a>. Sykes And Gwathmey &amp; Norfolk County . Board Of Supervisors. (1887) Map of Norfolk County, Va.: made for and published by authority of the Board of Supervisors. [Norfolk, Va.: Norfolk County Board of Supervisors] [Map] Retrieved from the Library of Congress, <a href="https://www.loc.gov/item/2014588020/">https://www.loc.gov/item/2014588020/</a>.</p>

- B. Typical year assessment(s):** The typical year assessment was not necessary because the ditch did not and does not relocate a tributary, was not constructed in a tributary and was not constructed in an adjacent wetland. Therefore, no analysis of flow conditions or connectivity was required.
- C. Additional comments to support AJD:** This ditch was not constructed in an adjacent wetland. The rationale for this finding is that at the time of construction this area was likely in heavy agricultural production. This agricultural production would have required extensive ditching which is evidenced from aerial imagery dating back to 1937. This extensive ditching would have effectively lowered the water table for crop production and the area would have no longer satisfied the wetland hydrology parameter. There are no wetlands currently abutting this ditch system. This provides addition evidence that if wetlands were present in the past, as is suggested by the soil's hydric classification, they have been effectively drained. Finally, Shillelagh Road traverses some of the highest elevations in the area and is geographically located furthest away from the extensive wetland systems surrounding Bells Mill Creek and New Mill Creek.