



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): November 5, 2020

ORM Number: NAO-2015-01745

Associated JDs: NAO-2019-0945

Review Area Location¹:

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

Center Coordinates of Review Area: Latitude 36.734481 Longitude -76.173011

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
juris stream 1	400 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This unnamed stream flows into wetlands abutting the Albemarle Chesapeake Canal, aka the Intracoastal Waterway.

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):

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.



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

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
juris wetland 1	0.34 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is part of an extensive wetland system that directly abuts the Albemarle Chesapeake Canal.
juris wetland 2	6.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is part of an extensive wetland system that directly abuts the Albemarle Chesapeake Canal.
juris wetland 3	0.24 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is part of an extensive wetland system that directly abuts the Albemarle Chesapeake Canal.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
ephem stream	100 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Ephemeral features are by definition an excluded feature. No OHW mark, flow appears to be result of precip events.
non-adj wetland 1	0.11 acres	(b)(1) Non-adjacent wetland	This wetland is separated by a 15-wide farm road. There is no evidence of overflow or culverted connection to adjacent wetlands.
non-adj wetland 2	0.03 acres	(b)(1) Non-adjacent wetland	This narrow linear wetland appears to be part of an abandoned ditch network. Its only connection to other waters is through ditches that are not traditional navigable waters, tributaries, or were not constructed in adjacent wetlands.
non-juris ditch 1	1250 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)	This ditch had a few inches of standing water, no discernible flow, is not a TNW, tributary, and was not constructed in adjacent wetlands.
non-juris ditch 2	145 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)	This ditch is a shallow lateral ditch off of NJD 1. It had no water, no evidence of recent saturation or flow, is not a TNW, a tributary, and was not constructed in adjacent wetlands.
non-juris ditch 3	800 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)	This ditch is shallow, excavated out of uplands, is not a TNW and is not a tributary.
non-juris ditch 4	1600 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)	This ditch had no standing water, is not a TNW, tributary, and was not constructed in adjacent wetlands.
non-juris ditch 5	1312 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)	This ditch was about 5 feet wide, no OHW mark, damp bottom but no standing water. Ditch was not constructed in a tributary, does not relocate a tributary, and was not constructed in an adjacent wetland.

III. SUPPORTING INFORMATION

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

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: *Camden Haven AJD submittal package dated Sept. 11, 2020*
- This information is sufficient for purposes of this AJD.
Rationale: *It provides NWI map, Lidar map, and the results of previous JDs done by CENAO.*
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *Historic aerial imagery, various years, from 1953 to 2020. Also, ground level photos included with data sheets.*
- Corps Site visit(s) conducted on: *October 14, 2020. Field notes included in this form, where appropriate. Mr. Janek visited data points 3A, 1A, and 2A with Mr. Jamie Armentrout, WSSI.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *NAO-2015-1745, PJD dated January 25, 2016 by Daniel Krenz; NAO-2019-0945, PJD dated January 6, 2020 by Dan Bacon.*
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *see table below.*
- USFWS NWI maps: *Digital NWI Camden Haven, Fig. 4 in AJD submittal.*
- USGS topographic maps: *USGS 7.5' Quadrangle, Camden Haven, Fentress, 1985; Fig. 1 in AJD submittal.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Historic quad figures file provided by agent, dated 10-16-20.
USDA Sources	"Soils Camden Haven", Figure 5 in AJD submittal
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Applicant's data sheets in the AJD submittal. Corps concurs with agent's findings.

- B. Typical year assessment(s):** An Antecedent Precipitation Tool report was run for October 14, 2020, the date of the Corps' site visit. Normal conditions for hydrology were documented in that report, with the 30-day running total above the normal 30-year range.
- C. Additional comments to support AJD:** Basis for decision discussed previously on this form. George Janek, the PM for this JD, also referred to topographic maps from 1902, 1907, 1954, and 2019 to research the history of the ditches, and also to confirm that they were not tributaries, relocated intermittent or perennial streams, and that they were not excavated from wetlands. Also, on most recent PJD for portions of this same project, Dan Bacon determined that wetlands were isolated (now

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.



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

referred to as non-adjacent but still shown on the wetland exhibit as isolated), and that the ditches were non-jurisdictional.

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.