



**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): 9/30/2020

ORM Number: NAO-2020-01381-rdb

Associated JDs: N/A

Review Area Location¹: State/Territory: Virginia City: Triangle County/Parish/Borough: Prince William

Center Coordinates of Review Area: Latitude 38.541111 Longitude -77.345278

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
S-1	239	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
S-2	924	linear feet	(a)(2) Perennial tributary contributes

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.



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

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
			surface water flow directly or indirectly to an (a)(1) water in a typical year.	evaluation methods. S-2 flows into Chopawamsic Creek and into the Potomac River, an (a)(1) water.
S-3	26	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Assessed using North Carolina Division of Water Quality (NCDWQ) and Fairfax County stream evaluation methods. S-3 flows into S-2, which flows into Chopawamsic Creek and into the Potomac River, an (a)(1) water.
S-4	122	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Assessed using North Carolina Division of Water Quality (NCDWQ) and Fairfax County stream evaluation methods. S-4 flows through an off-site culvert, into S-2, into Chopawamsic Creek, and into the Potomac River, an (a)(1) water.

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
W-1	0.001	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-1 shares a border with S-1.
W-2	0.001	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-2 shares a border with S-1.
W-3	0.019	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-3 shares a border with S-1 and S-2.
W-4	0.018	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-4 shares a border with W-5, which shares a border with S-2.
W-5	0.020	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-5 shares a border with S-2
W-6	0.026	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-6 shares a border with S-2.



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

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W-7	0.006	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-7 shares a border with S-2.
W-8	0.007	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-8 shares a border with S-2.
W-9	0.008	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-9 shares a border with S-2.
W-10	0.001	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-10 shares a border with S-2.
W-11	0.004	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-11 shares a border with S-2.
W-12	0.036	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-12 shares a border with S-2.
W-13	0.007	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-13 shares a border with S-3.
W-14	0.041	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	W-14 shares a border with S-4.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
SS-5	28	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Absence of flowing water and hydric soils, presence of bed and bank.
SW-15	0.032	acre(s)	(b)(1) Non-adjacent wetland.	This water feature has no surface hydrological connection to an (a)(1)–(a)(3) water.
SW-16	0.006	acre(s)	(b)(1) Non-adjacent wetland.	This water feature has no surface hydrological connection to an (a)(1)-(a)(3) water.
SW-17	0.353	acre(s)	(b)(1) Non-adjacent wetland.	This water feature has no surface hydrological connection to an (a)(1)-(a)(3) water.

III. SUPPORTING INFORMATION

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: *“Waters of the U.S. (Including Wetlands) Delineation and Resource Protection Area Evaluation, Marine Corps Heritage Foundation Proposed Trail Expansion”* dated July 20, 2020.

This information is sufficient for purposes of this AJD.

Rationale: *N/A*

- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *Aerial and Other: Exhibits 7, 8, and 9 (aerial), Exhibit 14 (ground photographs)*
- Corps site visit(s) conducted on: *Date(s)*.
- 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: *US Fish and Wildlife Service, downloaded March 2019.*
- USGS topographic maps: *Quantico, MD VA 1998*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
<i>USGS Sources</i>	<i>N/A.</i>
<i>Other USDA data (specify)</i>	<i>Soil data</i>
<i>NOAA Sources</i>	<i>N/A.</i>
<i>USACE Sources</i>	<i>N/A.</i>
<i>Other state/local data (specify)</i>	<i>Prince William County Digital Data (topography)</i>
<i>Other Sources</i>	<i>FEMA (flood map information) Panels 51153C0311D and 51153C0312E (Exhibit 6; Effective 01/05/1995 and 08/03/2015, respectively).</i>

B. Typical year assessment(s): U.S. Drought Monitor (Exhibit 11) maps for the week preceding the delineation field work to determine if drought conditions that could affect stream flows were present at the time of the stream assessment field work. The Palmer Index shows that this area is in a period of normal rainfall, while the U.S. Drought Monitor shows this area was not experiencing drought conditions at the time of field work.

C. Additional comments to support AJD: These waters of the U.S. include palustrine forested (PFO), palustrine scrub/shrub (PSS), and palustrine emergent (PEM) wetlands associated with unnamed perennial and intermittent tributaries of Chopawamsic Creek. An RPA associated with unnamed perennial tributaries of Chopawamsic Creek is also present on the study area. Field work was performed by Anna Oehser and William Neville, W.P.I.T.1 on June 24-25, 2020 and July 17, 2020. Aerial photographs of the study area, including Spring 2009 Natural Color Imagery from Virginia Base Mapping Program (VBMP) (Exhibit 7), Spring 2017 Near Color Infrared Imagery from VBMP (Exhibit 8), and February 2020 Natural Color Imagery from Nearmap® (Exhibit 9), were also examined to investigate whether signatures indicative of wetlands are found on the study area and to document recent land use changes in the vicinity of the project study area.



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

The PFO wetlands delineated with the L/M and E/F/G/H flag series lack a surface connection to jurisdictional wetlands or other waters of the U.S. and a significant nexus to other waters of the U.S. Per “The Navigable Waters Protection Rule: Definition of ‘Waters of the United States’” (Fed. Reg. Vol. 85, No. 77, Pg. 22280), physically remote isolated wetlands (i.e., wetlands that do not abut, are separated by more than a natural berm from, are not inundated by flooding in a typical year from, and do not have a direct hydrologic surface connection in a typical year to a jurisdictional non-wetland water) are not adjacent wetlands and thus, not considered to be “waters of the U.S.”.

The ephemeral feature in the south central portion of the study appears to originate in upland areas with a head-cut, defined bed and bank, and ordinary high water mark. This feature transitions to an intermittent stream following a second head-cut. Per 33 CFR Section 328.3 in the “The Navigable Waters Protection Rule: Definition of ‘Waters of the United States’” (Fed. Reg. Vol. 85, No. 77, Pg. 22338),