



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): 18-SEP-2020
 ORM Number: NAO-2020-01382
 Associated JDs: N/A or ORM numbers and identifiers (e.g. HQS-2020-00001-MSW-MITSITE)
 Review Area Location¹:
 State/Territory: VA City: County/Parish/Borough: Loudoun County
 Center Coordinates of Review Area: Latitude 38.977962 Longitude -77.417233

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
P-1	32 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	P-1 is an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River. The resource is shown in red on the delineation map as it's permitted to be impacted but has not been impacted at the time of this AJD.
S-1	85 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	S-1 is an unnamed tributary (UT) of Horsepen Run. Flow path: UT of Horsepen Run → Horsepen Run → Broad Run → Potomac Creek → Upper Potomac River.

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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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
P-2	0.0352 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	P-2 abuts an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River. The resource is shown in red on the delineation map as it's permitted to be impacted but has not been impacted at the time of this AJD.
P-3	0.0218 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	P-3 abuts an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River. The resource is shown in red on the delineation map as it's permitted to be impacted but has not been impacted at the time of this AJD.
W-1	0.0381 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	W-1 has a direct hydrologic surface connection via culvert to an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River.
W-2	0.0929 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	W-2 has a direct hydrologic surface connection via culvert to a PFO system located north which abuts an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River.
W-3	0.0185 acres	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water in a typical year	W-3 has a direct hydrologic surface connection via culvert to a PFO system located north which abuts an unnamed tributary (UT) of Indian Creek. Flow path: UT of Indian Creek → Indian Creek → Broad Run → Potomac Creek → Upper Potomac River.
W-4	0.027 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	W-4 abuts an unnamed tributary (UT) of Horsepen Run offsite. Flow path: UT of Horsepen Run → Horsepen Run → Broad Run → Potomac Creek → Upper Potomac River.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
E-1	0.0017 acres	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland	The feature involves non-channelized flow over upland driven from parking lot run-off.
E-2	0.0016 acres	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store	The feature was constructed in upland to convey stormwater run-off.

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U.S. ARMY CORPS OF ENGINEERS
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		stormwater runoff	
E-3	0.016 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	The feature was constructed in upland to convey stormwater run-off.
SW-1	0.0017 acres	(b)(1) Non-adjacent wetland	The wetland is geographically isolated, lacking a direct hydrologic surface connection to an (a)(1) – (1)(3) water.

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: *Delineation report titled "Waterside Data Center – Old Ox Road Widening" dated July 28, 2020 and date stamped as received by the Corps July 29, 2020*
- Data sheets prepared by the Corps: *Included in delineation report referenced above.*
- Photographs: *Google Earth Pro (Date range: 1989-2017), On-site photographs taken by consultant and submitted to the Corps*
- Previous Jurisdictional Determinations (AJDs or PJDs): *NAO-2019-00126, NAO-2011-01807, NAO-2014-00311, 2002-0391*
- Antecedent Precipitation Tool: *Refer to Section III.B below.*
- USDA NRCS Soil Survey: *USDA-NCSS Digital SSURGO and STATSGO data*
- USFWS NWI maps: *USFWS Digital Wetlands and Riparian data*
- USGS topographic maps: *Herndon 1998, Mt Vernon 1891, Fairfax 1915, Fairfax 1944*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS NHD Flowlines
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	Loudoun County GIS
Other Sources	LiDAR data/maps (USGS/NRCS)

B. Typical year assessment(s): According to the APT, the data points were taken by the consultant during normal conditions.

C. Additional comments to support AJD: N/A

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