



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): 29-APR-2021
ORM Number: NAO-2020-02408
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: Suffolk city
Center Coordinates of Review Area: Latitude 36.59848 Longitude -76.66651

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
stream AA	926 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream AA is labeled an intermittent tributary on the 1981 Whaleyville topo map, but flow looks to be perennial and the consultant agreed with that assessment. The stream flows south to Spivey Swamp.
stream AB	45 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	AB is an intermittent tributary to stream AA (see above).

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
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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.



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N/A	N/A	N/A	N/A
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Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
wetland A	0.31 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	This wetland is abutting stream AA which flows directly to Spivey Swamp.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
drainage ditch 1	306 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	This ditch appears to be the remnants of an old RR ditch at the toe of the old railroad bed. It is discontinuous and doesn't have a well-defined channel.
drainage ditch 2	119 feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	This drainage ditch also appears to be abandoned RR ditch, and this ditch does not connect to the roadside ditch on Lucy Cross Road.
wetland BC	1.3077 acres	(b)(1) Non-adjacent wetland	This wetland only has a connection to the discontinuous ditches to the north and south (ditches 1 and 2), and neither of these ditches connect to other jurisdictional waters.
wetland D	0.0572 acres	(b)(1) Water or water feature that is not identified in (a)(1)-(a)(4) and does not meet the other (b)(1) sub-categories	This wetland is physically separated from stream AA by a berm. There are trees growing in this berm which are at least 10 years old, indicating that any connection was severed years ago. There is no evidence of a channel, swale, or other connection.

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 U.S Delineation Map, Chaberton Energy" dated Feb. 2021
This information is sufficient for purposes of this AJD.
Rationale: Map accurately shows the aquatic resources.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: Untitled photos dated Feb. 24, 2021, showing the berm between wetland D and stream AA.
- Corps Site visit(s) conducted on: Feb. 24, 2021
- 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: *Figure 3: USDA Soils Map, November 2020.*
- USFWS NWI maps: *Fig. 4: NWI map, November 2020*
- USGS topographic maps: *Whaleyville 24K scale, 2019*

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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):** The APT showed that conditions were wetter than normal at the time of the site visit.
- C. Additional comments to support AJD:** N/A.

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