



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): 26 FEB 2021

ORM Number: NAO-2019-01878

Associated JDs: Audrey Cotnoir did a prelim JD dated February 13, 2020.

Review Area Location<sup>1</sup>:

State/Territory: VA City: County/Parish/Borough: Virginia Beach city

Center Coordinates of Review Area: Latitude 36.762183 Longitude -76.116553

**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
C-2	0.02 acres	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	This tributary had some flow during the December 22, 2020 site visit. The 1965 Princess Anne topo quad map shows a sinuous stream that drains to the south, toward the North Landing River. Even though this feature has been straightened and parts of it relocated to the roadside ditch on Salem Road, it is still a jurisdictional tributary to a(4) wetlands adjacent to North Landing River.

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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<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 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.

<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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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
N/A	N/A	N/A	N/A

**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
A-1	0.49 acres	(b)(6) Prior converted cropland	These are emergent areas located within agricultural fields that are regularly cultivated.
A-2	0.34 acres	(b)(6) Prior converted cropland	These are emergent areas located within agricultural fields that are regularly cultivated.
B-1	0.14 acres	(b)(1) Non-adjacent wetland	Wetland B-1 is physically separated by old fill and topography from the larger wetland B-2.
B-2	0.82 acres	(b)(1) Non-adjacent wetland	B-2 extends north into the adjacent subdivision. A check of the VA Beach GIS drainage layer does not show a connection to the city stormwater system. This wetland is isolated.
B-4	0.1 acres	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	Systems B-4 and B-5 (below) are ditches that flow north to the adj. subdivision and to the SWM basin, a non-jurisdictional water.
B-5	0.12 acres	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	
C-1	0.06 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 is a ditch that appears to have been excavated in uplands, probably for agricultural drainage.
D-1	0.14 acres	(b)(6) Prior converted cropland	D-1, D-2, and D-3 are all lower areas within active agricultural fields. They were recently mown for hay production in late 2020.
D-2a	0.28 acres	(b)(6) Prior converted cropland	
D-2b	0.25 acres	(b)(6) Prior converted cropland	
D-3	0.26 acres	(b)(6) Prior converted cropland	
D-4	0.08 acres	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	D-4 is another agricultural ditch that doesn't flow directly or indirectly to an a(1) water.
E-1	0.04 acres	(b)(6) Prior converted cropland	Aquatic resources E-1 through E-6 are all low features in established ag fields with on-going production.
E-2	0.07 acres	(b)(6) Prior converted cropland	
E-3	0.07 acres	(b)(6) Prior converted cropland	
E-4	0.07 acres	(b)(6) Prior converted cropland	
E-5	0.13 acres	(b)(6) Prior converted cropland	
E-6	0.16 acres	(b)(6) Prior converted cropland	
NJD-1	0.05 acres	(b)(1) Surface water channel that	ALC called this out in the prelim JD completed in 2020.

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		does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	NJD-1 doesn't connect to jurisdictional surface waters and neither does NJD-2. Neither NJD-1 nor NJD-2 was constructed in a tributary, relocates a tributary, or was constructed in an adjacent wetland.
NJD-2	0.09 acres	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year	See explanation above for NJD-2.

**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: *Fig. 1: Wetland Delineation Overlain on Aerial dated 01/21/2021.*  
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: *Data sheets were submitted as part of the initial PJD package.*
  - Photographs: *Figure 5. Wetland Delineation Overlain on DOQQ (infrared photo overlay dated 12-07-2020)*
  - Corps Site visit(s) conducted on: *December 22, 2020 with Kenny Jesensky of Kimley-Horn.*
  - Previous Jurisdictional Determinations (AJDs or PJDs): *same ORM number; completed by A. Cotnoir and emailed to applicant on February 13, 2020.*
  - Antecedent Precipitation Tool: *Run by the agent; shows that conditions were "wetter than normal" on Dec. 22, 2020, the date of site .*
  - USDA NRCS Soil Survey: *Figure 4 taken from Soil Survey Map Book*
  - USFWS NWI maps: *N/A*
  - USGS topographic maps: *1990 Princess Anne topo map, 1986 map, 1965 topo, 1948 topo, 1919 topo.*

**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	Used the Virginia Beach GIS system to confirm that some aquatic resources no longer drain to jurisdictional water bodies.
Other Sources	N/A.

- B. Typical year assessment(s):** This was run two days before the site visit on December 22, 2020. Conditions were wetter than normal.

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C. **Additional comments to support AJD:** N/A (no additional explanation needed aside from what was provided above).

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