



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): 15-JUL-2021

ORM Number: NAO-2015-01252

Associated JDs: N/A

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

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

Center Coordinates of Review Area: Latitude 36.819033 Longitude -76.489635

**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
Bennett Creek	1525 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Bennett Creek flows north into Quaker Neck Creek, which is a tidal stream.

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):

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<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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(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
eastern PFO wetlands	12 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	These wetlands are contiguous to an eastern tributary to Bennett Creek.
PFO wetlands in floodplain	3 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	These wetlands are located within the floodplain of Bennett Creek and are abutting.
Western PFO wetlands	12 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	These wetlands are contiguous to an eastern tributary to Bennett Creek.

**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
borrow ponds	2.4 acres	(b)(9) Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel	These are ponds excavated from uplands, with no surface connections to other WOUS. They have been used as a borrow source for the landfill since at least 2003.

**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: *JD submittal package dated March 26, 2021.*
- This information is sufficient for purposes of this AJD (with revisions to the wetland map). Rationale: N/A. The revised map adequately shows both jurisdictional and excluded aquatic resources.
- \_\_\_ Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: Google Earth Pro imagery dated 11/15/2003, 1/31/2007, and 11/15/2016. Also, 2021 aerial set provided by the consultant titled "SE Corner facing NW", "SE Corner", "Excavated Pond & Access Roadway", and "Full Site Facing SE".
- Corps Site visit(s) conducted on: *May 5, 2021.*
- Previous Jurisdictional Determinations (AJDs or PJDs): *Same ORM number, PJD completed by John Derbish on January 28, 2016.*
- \_\_\_ Antecedent Precipitation Tool: N/A
- USDA NRCS Soil Survey: *Web Soil Survey, 3/17/2021.*
- USFWS NWI maps: *Holland Landfill NWI dated March 17, 2021.*
- USGS topographic maps: *Bowers Hill, dated March 18, 2021.*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Bowers Hill topo map from "Historic Topo Maps" website.
USDA Sources	N/A.

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NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	"Holland Landfill Surface Waters Delineation Map" by Kimley Horn (undated); NRCS information (fax) addressed to Chuck Wolfe (poor quality documents included in consultant's submittal package).

**B. Typical year assessment(s):** N/A

**C. Additional comments to support AJD:** In the preliminary wetlands map (their title) prepared by the consultant, the PFO wetlands are connected south of data points 6 and 7. There appeared to be a surface connection over an existing dirt access road. The linear wetlands are approximately 5 feet wide, had water-stained leaves and other primary indicators of hydrology, and had fairly large FAC trees (red maple) growing within the "ditch" banks.

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