



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): 23-JUL-2021

ORM Number: NAO-2021-00561

Associated JDs: NAO-2014-1684, dated March 17, 2015 by Melissa Nash (Admin staff entered this as new project)

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

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

Center Coordinates of Review Area: Latitude 36.743096 Longitude -76.613178

**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
N/A	N/A	N/A	N/A

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

<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 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.

<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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wetland 1	0.24 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	These wetlands (1-5) appear to be connected to each other outside of the project limits. Based on the 1997 Suffolk topo map and Google Earth pro (GEP) aerial photos, it appears that wetlands 1 and 4 drain south, out of the project limits, into wetlands that eventually reach Lake Meade in the vicinity of a railroad crossing of the reservoir.
wetland 2	0.013 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	See rationale for wetland 1.
wetland 3	0.037 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	See rationale for wetland 1.
wetland 4	1.81 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	See rationale for wetland 1.
wetland 5	2.67 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	See rationale for wetland 1.

**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
wetland 6	0.52 acres	(b)(1) Non-adjacent wetland	At one time a swale or ditch bisected this field and drained towards an arm of Lake Meade. This ditch now has an uneven bottom, no distinct OHW line, and doesn't have a continuous route of flow towards this arm of Lake Meade. Construction on the development to the south started in 2016 (GEP aerial dated 11/5/2016) and the perimeter road may have severed that connection. There was no piped connection observed during the site visit on April 27, 2021. The GEP aerial dated 4/23/2014 shows a connection to a pond and then to Lake Meade.

**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: *“Figure 2: Site Conditions, Foxfield Condominiums Site, Wetland Delineation” dated 4/29/2021.*

This information is sufficient for purposes of this AJD.

Rationale: *The map accurately depicts the site conditions.*

Data sheets prepared by the Corps: *N/A. We relied on the applicant's data sheets.*

Photographs: *Aerial photos from Google Earth Pro (GEP), various dates, and ground level photos, 1-4, taken by the agent.*

Corps Site visit(s) conducted on *April 27, 2021.*

Previous Jurisdictional Determinations (AJDs or PJDs): *NAO-2014-1684, letter dated March 17, 2015.*

Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*

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- USDA NRCS Soil Survey: *Figure 4: NRCS Soils Map.*
- USFWS NWI maps: *Title(s) and/or date(s).*
- USGS topographic maps: *Suffolk topo map dated 1997.*

**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	Lidar map provided by agent, titled Figure 5 Lidar Map, dated 10/06/2020.

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

**C. Additional comments to support AJD:** I referred to the wetland map that had been approved by Melissa Nash with a letter dated March 17, 2015. Wetland 6 on this delineation is now isolated and is therefore an excluded feature, the central ditch doesn't appear to convey flow any longer, and the wetlands on the northern half of this site are now larger and connected. The PEM wetlands near DP A may be spring fed.

This was a difficult site because it had little topography, no hydrology at the time of the site visit, and soils that were mostly consistent throughout the site. Bay Environmental staff (Amy Conley and Olivia Cacciatore) based their PEM line on *Juncus effusus* and *Solidago altissima*, but the rush was evident in upland portions of the farm field too. Ms. Conley said that the field used to be a cow pasture, which could explain how the *Juncus* was spread throughout the fields. Dogbane was also observed in upland areas of the field. Ms. Conley also said that they observed saturated soils earlier in the growing season in both the PEM and PFO wetlands, and that in some upland areas they observed brighter soils underneath lower chroma surface soils (see data point B).

George Janek revised the previous wetland limits based on this delineation, which can be partially attributed to the development to the south.

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