



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): March 26, 2021

ORM Number: NAO-2019-00578-JSH

Associated JDs: NAO-2019-00578-PreliminaryJD

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

State/Territory: VA City: County/Parish/Borough: Powhatan County

Center Coordinates of Review Area: Latitude 37.5706 Longitude -77.9132

**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
Stream1	3057 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream10	372 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream11	989 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year

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<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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Stream13	130 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream14	825 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream15	2274 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream16	1194 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream17	146 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream18	1086 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream19	543 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream20	521 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream21	622 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream3	2501 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream4	745 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year
Stream9	143 feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Naturally occurring surface water that contributes flow to an A1 water in a typical year

**Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):**

<b>(a)(3) Name</b>	<b>(a)(3) Size</b>	<b>(a)(3) Criteria</b>	<b>Rationale for (a)(3) Determination</b>
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Wetland11	17.68 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Impoundment of a jurisdictional water that contributes surface water flow directly or indirectly to an (a)(1) water in a typical year
Wetland19	9.71 acres	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Impoundment of a jurisdictional water that contributes surface water flow directly or indirectly to an (a)(1) water in a typical year

**Adjacent wetlands ((a)(4) waters):**

<b>(a)(4) Name</b>	<b>(a)(4) Size</b>	<b>(a)(4) Criteria</b>	<b>Rationale for (a)(4) Determination</b>
Wetland1	0.94 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland10	0.7 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland12	0.68 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland14	1.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland15	0.04 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland16	1.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland17	0.38 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland18	0.19 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland2	0.15 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland20	0.66 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland21	0.02 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland22	0.44 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland23	0.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland24	1.53 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland25	19.02 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland26	0.9 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland27	4.77 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland28	3.72 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland29	0.05 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year

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Wetland3	0.14 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland5	2.26 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland6	1.21 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland7	0.38 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland8	2.15 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year
Wetland9	0.54 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts an A-1 - A3 water that contributes flow downstream in a typical year

**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
Stream12	260 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Stream2	297 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Stream5	257 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Stream6	359 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Stream7	234 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Stream8	146 feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	Channel only flows during precipitation events
Wetland30	0.31 acres	(b)(1) Non-adjacent wetland	Wetland is located above an excluded (b)(3) water
Wetland4	0.69 acres	(b)(1) Non-adjacent wetland	Wetland does not abut any jurisdictional A1- A3 waters
Wetland13	0.01 acres	(b)(1) Non-adjacent wetland	Wetland does not abut any jurisdictional A1- A3 waters

**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.

X Information submitted by, or on behalf of, the applicant/consultant: Drawing titled "Powhatan Solar I, LLC & Powhatan Solar II, LLC, Surveyed Wetlands & Waters Map," sheets 1-4 dated December 20, 2018, revised March 18, 2019, revised May 23, 2019, revised December 14, 2020, revised February 4, 2021, revised February 10, 2021 and Corps date stamped as received February 10, 2021

This information is sufficient for purposes of this AJD.

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Rationale: The applicant requested an approved JD to review excluded waters on the site. A preliminary JD was completed in the past. The data provided and aerial photo review show the ephemeral portions of the streams have been manipulated over time and farming practices have taken place relatively close to the channels. Two areas of isolated wetlands noted on the preliminary JD continue to be accurate. An additional excluded area of wetland (wetland30) was added above a newly labeled excluded ephemeral channel.

Data sheets prepared by the Corps: *Title(s) and/or date(s)*.

- Photographs: Google Earth accessed 1/2021 (1994-2019) . AJD report December 17, 2020
- Corps Site visit(s) conducted on: May 16, 2019, January 27, 2021
- Previous Jurisdictional Determinations (AJDs or PJDs): NAO-2019-0578 on June 10, 2019
- Antecedent Precipitation Tool: provide detailed discussion in Section III. C.
- USDA NRCS Soil Survey: *Corpsmap January 2021*
- USFWS NWI maps: *Corpsmap NWI January 2021*
- USGS topographic maps: *Corpsmap February 2021*

**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):** N/A

**C. Additional comments to support AJD:** Updated ephemeral streams present onsite lack physical characteristics seen in intermittent channels such as meandering and sediment sorting. The Antecedent Precipitation Tool was used to determine if the site visit conducted on January 27, 2021 was in a wetter than normal wet season and the result was normal conditions wet season.

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