

**Attachments to the Comments of Waterkeeper Alliance, et al. on
Proposed Revised Definition of “Waters of United States”**

Docket ID No. EPA-HQ-OW-2021-0328

Submitted on September 3, 2021

Volume 5 of 6

Attachments

11-14

ATTACHMENT 11



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): 14-OCT-2020

ORM Number: SAS-2018-00554

Associated JDs: N/A

Review Area Location¹:

State/Territory: GA City: County/Parish/Borough: Charlton County

Center Coordinates of Review Area: Latitude 30.525932 Longitude -82.124468

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
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
N/A	N/A	N/A	N/A

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 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Review Area 1 D1	412 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	This feature appears to be a man-dug ditch that was constructed to drain depressional wetland areas. This feature was dug through wetland WE, a non-adjacent wetland, and continues east through upland areas. This ditch does not appear to modify or relocate a natural channel, nor was it constructed through an adjacent wetland. Further, this ditch did not meet the flow requirements to be considered a tributary under the NWPR. Based on this, the ditch is best defined as a paragraph (b)(5) non-jurisdictional water under the NWPR
Review Area 1 WE	4.22 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 1 WF	4.05 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 1 WG	5.55 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 1 WH	3.18 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 2 WA-8	1.3 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 2 WA-9	16.98 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters

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.



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

Review Area 2 WK	2.5 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. This wetland feature is connected via culvert to an off-site b(1) wetland which also does not meet any of the adjacency criteria.
Review Area 3 D2	1090 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	This feature appears to be road-side ditch that was constructed adjacent to the road. The road was constructed prior to 1970 and thus prior to Clean Water Act regulation. This feature follows along the north-south road and beside wetland WA-7, a non-adjacent wetland, and continues north through upland areas to a culvert. This ditch does not appear to modify or relocate a natural channel, nor was it constructed through an adjacent wetland. Further, this ditch did not meet the flow requirements to be considered a tributary under the NWPR. Based on this, the ditch is best defined as a paragraph (b)(5) non-jurisdictional water under the NWPR.
Review Area 3 WA-6	28.79 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. This wetland feature is disconnected from downstream waters via an artificial structure (road) that does not allow direct hydrologic surface connection through or over in a typical year. The road was constructed prior to 1970 and thus prior to Clean Water Act regulation.
Review Area 3 WA-7	11.6 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. This wetland feature is disconnected from downstream waters via an artificial structure (road) that does not allow for a direct hydrologic surface connection through or over in a typical year. Water discharged from the wetland flows north through a road-side ditch that does not meet the flow requirements to be considered a tributary under the NWPR, nor would this ditch be considered an adjacent wetland under the NWPR. The ditch crosses under the road several hundred feet north of WA-7 and traverses another 200 feet before intersecting with potentially adjacent wetlands west of WA-7. The road was constructed prior to 1970 and thus prior to Clean Water Act regulation.
Review Area 4	412 feet	(b)(5) Ditch that is not an (a)(1) or	This feature appears to be a man-dug ditch constructed

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

D3		(a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	in uplands. Overland flow from wetland WA-3 drains through a culvert under Georgia Highway 94 and into this ditch This ditch does not appear to modify or relocate a natural channel, nor was it constructed through an adjacent wetland. Further, this ditch did not meet the flow requirements to be considered a tributary under the NWPR. Based on this, the ditch is best defined as a paragraph (b)(5) non-jurisdictional water under the NWPR
Review Area 4 WA-3	103.71 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. Water discharged from the wetland flows south through a culvert and an excluded b(5) ditch, constructed in uplands, that does not meet the definition of an a(1) – a(4) water.
Review Area 4 WA-4	19.1 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. This wetland feature is disconnected from downstream waters via an artificial structure (road) that does not allow direct hydrologic surface connection through or over in a typical year. The road was constructed prior to 1970 and thus prior to Clean Water Act regulation. Wetland WA-4 is upgradient of WA-3 and therefore non-adjacent regardless of the artificial separation, due to WA-3's exclusion.
Review Area 4 WJ	1.07 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters
Review Area 5 D5	648 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	This feature appears to be a man-dug ditch that was constructed to drain depressional wetland areas. This feature was dug through wetland WH, a non-adjacent wetland. The ditch starts at a culvert under Georgia Highways 94, continues southeast, ends at a culvert under the railroad tracks which drains to the south to an off-site property. This ditch does not appear to modify or relocate a natural channel, nor was it constructed through an adjacent wetland. Further, this ditch did not meet the flow requirements to be considered a tributary under the NWPR. Based on this, the ditch is best defined as a paragraph (b)(5) non-jurisdictional water under the NWPR
Review Area 5	153.25 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

WA-2			as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. This wetland feature is disconnected from adjacent waters to the north via an artificial structure (road) that does not allow direct hydrologic surface connection through or over in a typical year. The road was constructed prior to 1970 and thus prior to Clean Water Act regulation.
Review Area 5 WC	0.96 acres	(b)(1) Non-adjacent wetland	<p>This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. It appears that wetland WC was historically connected to wetland WH, but a road was constructed through this wetland separating the two wetlands. There is no evidence of a direct hydrologic surface connection between WC and WH through or over the road. A roadside ditch does expand from WC to WD and to a culvert under the road to wetland WH, but this roadside ditch does not meet the flow requirements to be considered a tributary under the NWPR. Further, it does not appear to have been created in an adjacent wetland nor is there evidence to suggest that the ditch modified or relocated a natural channel.</p> <p>This ditch drains south through culverts to an off-site property that was inaccessible for field review. A review of aerial imagery and USGS topography maps indicate that there are potential wetlands directly south of wetlands WC, WD, and WH. However, these wetland areas south of the road appear to be situated on top of a flat ridge and surrounded by upland areas based on the aerial imagery and USGS Topo Maps. Based on this, Wetlands WC, WD and WH would not meet the definition of an adjacent wetland under the NWPR and are best defined as a (b)(1) non-adjacent wetland.</p>
Review Area 5 WD	6.3 acres	(b)(1) Non-adjacent wetland	This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. It appears that wetland WC was historically connected to wetland WH, but a road was constructed through this wetland separating the two wetlands. There is no evidence of a direct hydrologic surface connection between WC and WH through or over the road. A roadside ditch does expand from WC to WD and to a culvert under the road to wetland WH, but this roadside ditch does not meet

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

			<p>the flow requirements to be considered a tributary under the NWPR. Further, it does not appear to have been created in an adjacent wetland nor is there evidence to suggest that the ditch modified or relocated a natural channel.</p> <p>This ditch drains south through culverts to an off-site property that was inaccessible for field review. A review of aerial imagery and USGS topography maps indicate that there are potential wetlands directly south of wetlands WC, WD, and WH. However, these wetland areas south of the road appear to be situated on top of a flat ridge and surrounded by upland areas based on the aerial imagery and USGS Topo Maps. Based on this, Wetlands WC, WD and WH would not meet the definition of an adjacent wetland under the NWPR and are best defined as a (b)(1) non-adjacent wetland.</p>
Review Area 5 WH	14.14 acres	(b)(1) Non-adjacent wetland	<p>This wetland is not adjacent to any (a)(1)-(a)(3) waters as defined by the NWPR. This wetland does not abut any (a)(1)-(a)(3) waters, is not inundated or have a direct surface water connection to any (a)(1)-(a)(3) waters in a typical year. This wetland is physically separated from all (a)(1)-(a)(3) waters. It appears that wetland WC was historically connected to wetland WH, but a road was constructed through this wetland separating the two wetlands. There is no evidence of a direct hydrologic surface connection between WC and WH through or over the road. A roadside ditch does expand from WC to WD and to a culvert under the road to wetland WH, but this roadside ditch does not meet the flow requirements to be considered a tributary under the NWPR. Further, it does not appear to have been created in an adjacent wetland nor is there evidence to suggest that the ditch modified or relocated a natural channel.</p> <p>This ditch drains south through culverts to an off-site property that was inaccessible for field review. A review of aerial imagery and USGS topography maps indicate that there are potential wetlands directly south of wetlands WC, WD, and WH. However, these wetland areas south of the road appear to be situated on top of a flat ridge and surrounded by upland areas based on the aerial imagery and USGS Topo Maps. Based on this, Wetlands WC, WD and WH would not meet the definition of an adjacent wetland under the NWPR and are best defined as a (b)(1) non-adjacent wetland.</p>

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.

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 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

- Information submitted by, or on behalf of, the applicant/consultant: *WOTUS Delineation Report, September 28, 2018 and WOTUS Connectivity Screening, September 2020.* This information is sufficient for purposes of this AJD.
- Data sheets prepared by the Corps: *Title(s) and/or date(s).*
- Photographs: *(aerial and other) USGS Earth Explorer 03/18/1963, 01/21/1970; USGS EROS NHAP, 02/14/1984; USGS EROS NAPP 02/18/1993; USGS Express Aerials Imagery 02/01/2006; Google Earth, 03/06/2018; Vivid 03/06/2018 & 11/20/2019; Twin Pines Orthoimagery 09/2018. Site photographs provided in September 28, 2018 delineation report*
- Corps Site visit(s) conducted on: *November 2018 and September 16, 2020.*
- 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: *Web Soil Survey map provided for the areas in the September Delineation Report.*
- USFWS NWI maps: *NWI Mapping provided in the September Delineation Report.*
- USGS topographic maps: *Moniac, Florida and Saint George, GA USGS 7.5 Minute Quad Maps, 2017 provided in Approved Jurisdictional Request submission; Moniac, Florida and Saint George, GA USGS 7.5 Minute Quad Maps, 1994 provided in September 28, 2018 delineation report.*

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):** APT was run for the review areas for September 16, 2020 (date of most recent Corps site visit). APT output indicated normal conditions and the Drought Index (PDSI) indicated "Incipient Wetness". The site is in a typical year and experiencing conditions that are within the normal ranges for a typical year.
- C. Additional comments to support AJD:** The five review areas contain non-adjacent wetlands and ditches. The wetlands are not adjacent to any a(1), a(2), or a(3) waters, and are not inundated by any a(1), a(2), or a(3) water in a typical year. None of the ditches meet the criteria to be considered an (a)(2) water and are excluded (b)(5) waters.

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.

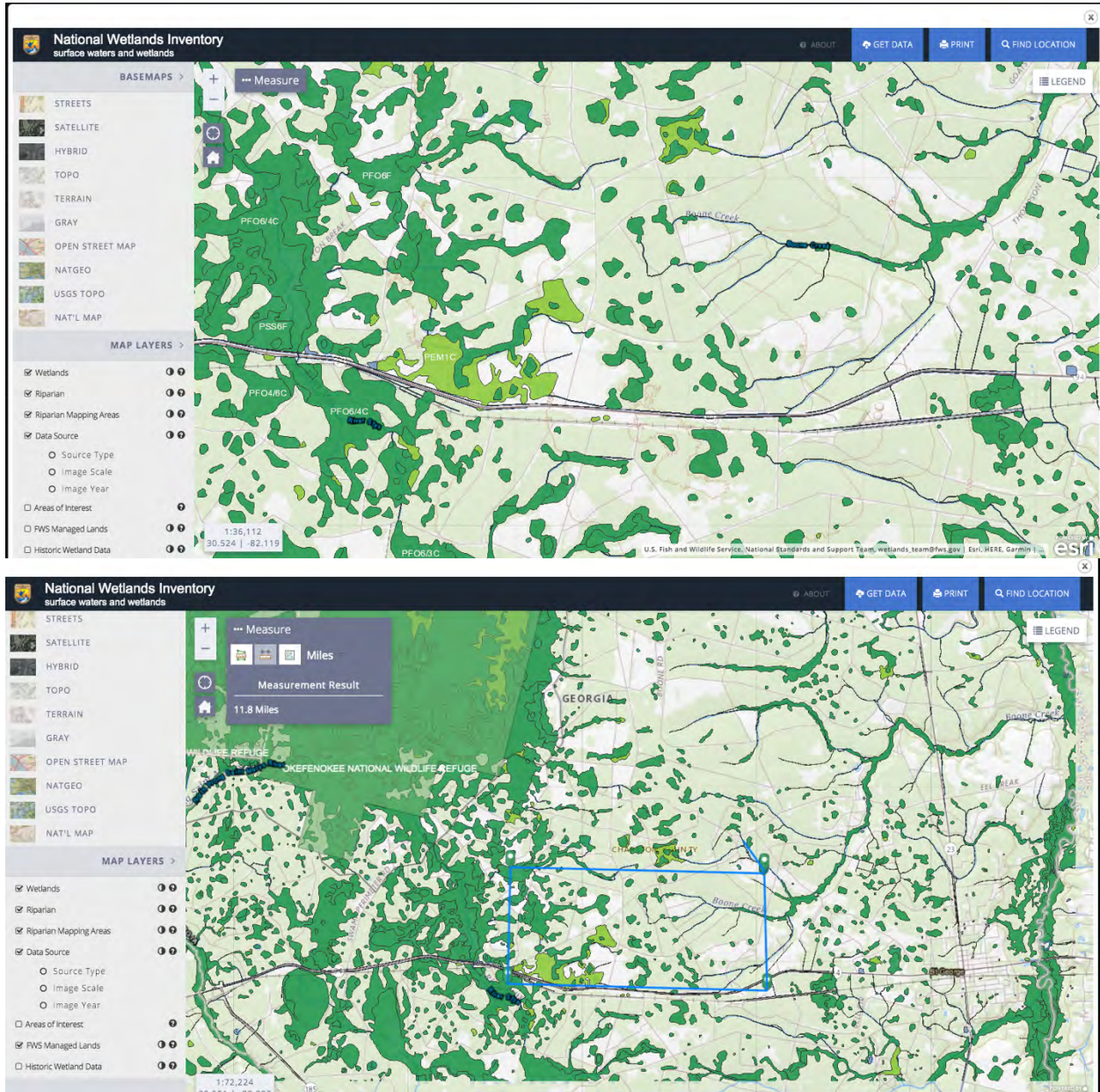
⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps Districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

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.

ATTACHMENT 12

Waterkeeper Alliance Comments on Docket ID No. EPA-HQ-OW-2021-0328
Attachment 12

National Wetlands Inventory Maps of Area In and Around the What is Believed to Be the Twin Pines Mining Site – Showing Multiple Streams and Wetlands, including Wetlands Intersecting Streams.



Source: <https://www.fws.gov/wetlands/data/mapper.html>

ATTACHMENT 13



**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): 3/1/2021
 ORM Number: NWO-2021-00236-MTB
 Associated JDs: N/A
 Review Area Location¹: State/Territory: MT City: Billings County/Parish/Borough: Yellowstone
 Center Coordinates of Review Area: Latitude 45.831916 Longitude -108.412101

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
- 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.	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.	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.	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.	N/A.

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.	N/A.

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Pond 1 and Pond 2	13.8 acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	See Section C below.

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: [Title\(s\) and date\(s\)](#)
This information [Select](#). sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\)](#).
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: February 2021 onsite photos and Imagery from 1969-Present](#)
- Corps site visit(s) conducted on: [February 3, 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: [Web Soil Survey](#)
- USFWS NWI maps: [NWI Wetland Mapper](#)
- USGS topographic maps: [1954-Present Topographic Maps](#)

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](#)

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

C. Additional comments to support AJD: On February 3, 2021, the U.S. Army Corps of Engineers (USACE) completed a site visit with staff from Weave Construction regarding an ongoing gravel mine operation and two (2) ponds that were constructed during the initial development of the gravel mine between 1960 and 1970. A relocated tributary is also located in the area, identified in blue on the attached map. The relocated tributary is outside the area of proposed disturbance and on the property boundary line. The review area for this project consists of the two basins and the USACE is not evaluating the jurisdictional status of the relocated tributary. The ponds are located in Section 18, Township 1 North, Range 27 East, Yellowstone County, Montana. Historical imagery and topographic maps were evaluated to determine the presence or lack of otherwise jurisdictional waters on the landscape, prior to the development of the ponds.

The depth of the ponds was not determined but, some vegetation on the fringe of these features can be seen in aerial imagery when the water table is low. The landowner has indicated that the ponds are typically fed via ground water as the surrounding soil profile is highly permeable consisting mostly of sand and rock. A review of aerial imagery suggests that the ponds in the surrounding area fluctuate with the Yellowstone River and other aquatic resources in the immediate vicinity. This supports the determination that the ponds fluctuate mostly because of ground water.

Pond 1 in the JD request is solely influenced by ground water based on the site inspection. No culverts were identified to determine the incoming source of hydrology. A headgate and pipe were found at the Northeast corner of Pond 1, suggesting an artificial hydrologic connection to the downstream relocated tributary. A review of topographic maps dated 1954-present, indicated that the specific location of the Pond 1 was not located in a previously identified aquatic resource. Additionally, the National Wetland Inventory Mapper (NWI) displays this specific pond as an excavated Palustrine Aquabed feature. Pond 1 shares a hydrologic connection with downstream waters; however, the pond was not constructed in a jurisdictional water. Based on this information, USACE has determined the pond is a b(8) exclusion, as an abandoned sand and gravel pit which has filled with water. Pond 1 is not regulated under Section 404 of the Clean Water Act.

Pond 2 in the JD request is influenced by ground water and runoff from an Exxon Mobile plant. USACE discussed the plants discharge into the cooling ponds with Exxon Mobile staff and confirmed that the water flowing into Pond 2, is part of this system. There is an intricate network of culverts and other connections that flow through Pond 2 and into the relocated tributary that is connected to the Yellowstone River. Topographic maps dating back to 1954, do not show the in-flow for Pond 2, from the west. Part of the feature was placed on the 2017 Topographic map. Despite the aquatic resource being present on aerial imagery in 1954, the origination is not known. 1969 imagery shows the initial development and growth of additional Exxon Mobile refinery and their associated ponds. No imagery exists that indicates the in-flow for Pond 2 was natural. Topographic maps dated 1954-2016 indicate that the area did not contain a natural tributary. NWI also indicates that the in-flow feature is an excavated feature. After exhausting the available remote sensing data and the knowledge gathered from the landowner and Exxon Mobile staff, USACE has determined there is no proof of a natural stream in the specific location Pond 2 was constructed. Although it has a direct hydrologic connection with downstream waters, no evidence suggests it was constructed in a



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

previously jurisdictional water and thus, is not a regulated Water of the United States. USACE has determined this is a b(8) water and is excluded from jurisdiction under Section 404 of the Clean Water Act.



**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): 3/2/2021

ORM Number: SPA2020-169

Associated JDs: N/A

Review Area Location¹: State/Territory: New Mexico City: Unincorporated County/Parish/Borough: Cibola

Center Coordinates of Review Area: Latitude 35.164620° Longitude -107.299969°

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
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
N/A.	N/A.	N/A.	N/A.

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Meyers Draw	10912	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III. C below for information supporting the exclusion determination.
Arroyo del Valle	1918	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III. C below for information supporting the exclusion determination.
East Tributary	3490	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	See Section III. C below for information supporting the exclusion determination.
Pit 1	N/A.	N/A.	(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.	See Section III. C below for information supporting the exclusion determination.

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: [Aquatic Resources Delineation Report for the St. Anthony Mine Closure Project, Cibola County, New Mexico November 2020](#)

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: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other:](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

- 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: [January 11, 2020](#)
- USFWS NWI maps: [Title\(s\) and/or date\(s\)](#).
- USGS topographic maps: [NM Moquino 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
Other USDA data (specify)	NRCS Ecological site R035XA119NM - Clayey Bottomland
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	A. Park Williams, Edward R. Cook, Jason E. Smerdon, Benjamin I. Cook, John T. Abatzoglou, Kasey Bolles, Seung H. Baek, Andrew M. Badger, Ben Livneh. 2018. Large Contribution from Anthropogenic Warming to an Emerging North American Megadrought. <i>Science</i> . Vol. 368 Issue 6488. Pp. 314-318.

B. Typical year assessment(s): According to the Antecedent Precipitation Tool (APT), July through October is the time of year with the most precipitation over a 30-year rolling period for the review area; and the monsoon season occurs between mid-June and the end of September. However, it should be noted that upon reviewing the ATP results discussed in the next section, this area experiences a highly variable amount of precipitation each year. Due to this lack of a consistent amount of precipitation from year to year for the review area, it is difficult to determine whether the analysis has been conducted during normal, wetter, or drier conditions. Regardless, the results of this AJD are not heavily reliant on the typical year assessment.

It is also worth noting that a recent study by Columbia University notes that the American Southwest is experiencing a historic “megadrought” not seen in centuries. In fact, for several western states, including New Mexico, the last twenty years ranks as the second-driest period in the past 1,200 years (A. Park. Williams, 2018). Based on this data, it seems reasonable that in New Mexico a typical year within the 30-year rolling period is characterized by drought conditions—even severe drought conditions.

C. Additional comments to support AJD: The review area for this AJD includes the location of the St. Anthony Mine Closure Project. The review area is located on private land within a 615.4-acre project site approximately 40 miles west of Albuquerque and 4.6 miles southeast of Seboyeta in Cibola County, New Mexico. United Nuclear Corporation obtained the services of SWCA Environmental Consultants (SWCA) to conduct fieldwork and research to support this AJD, which resulted in the preparation of the Aquatic Resources Delineation Report.

According to information provided by the Natural Resources Conservation Service, the review area has an arid climate with distinct seasonal temperature variations and large annual and diurnal temperature changes characteristic of a continental climate. Precipitation averages 8 to 10



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

inches annually; however, deviations of 4 inches or more from the average are common. Approximately 50 percent of the precipitation occurs between July and November, which is the dominant growing season of native plants. Summer precipitation is characterized by high-intensity, short-duration rainstorms. Winter precipitation averages less than one-half inch per month, usually in the form of rain.

There are two predominate soil types present in the review area: Sparank-San Mateo complex (65 percent) and Dumps-Pits complex (30 percent). Sparank-San Mateo complex, which is described as “well drained” with a depth to restrictive feature of more than 80 inches and depth to the water table of more than 80 inches. The soil is characterized as having a low available water capacity and does not flood or pond. A typical profile for Sparank soil consists of 0 to 2 inches of clay loam in the A Horizon, 2 to 60 inches of silty clay loam in the C Horizon, the San Mateo soils consists of 0 to 2 inches of clay loam in the A Horizon, 2 to 29 inches of silty clay loam in the C1 Horizon, and 29 to 60 inches of ratified sandy loam to silty clay loam in the C2 Horizon. The Dumps-Pits complex, which is fragmented material and bedrock left over from mining activity. A typical profile for this soil consists of 0 to 60 inches of fragmental material in the Cr Horizon.

In addition to the report prepared by SWCA, the APT was run for the following dates in conjunction with reviewing satellite imagery of the review area: April 7, 2019, October 1, 2014, January 20, 2013, and December 10, 2004 (see document 2020-169 APT Batch Result St Anthony Mine.pdf and 2020-169 Satellite Images.pdf). The date of April 7, 2019 was selected because of available satellite imagery and the Antecedent Precipitation Condition is listed as “Wetter than Normal”. This date also has satellite imagery of the confluence between the Rio San Jose and the Arroyo Conchas showing surface water in the former but not the latter. The Arroyo Conchas is the waterway that the review area drains to approximately 3.5 miles from the project site. The date of October 1, 2014 was selected because there is satellite imagery available and the APT condition was listed as “Normal Conditions”, and according to the 30-year rolling average is in the time of year with the most precipitation. The satellite imagery for this data also shows surface water within the Rio San Jose but none in the Arroyo Conchas. The dates of January 20, 2013 and December 10, 2004 were selected as both dates fall within the wet season and have satellite imagery available. The date of January 20, 2013 also shows surface water in the Rio San Jose but none in the Arroyo Conchas. The date of December 10, 2004 is listed as “Normal” conditions per the APT. No surface water was observed in the review area on this date.

East Tributary 3,490-foot channel

During fieldwork conducted by SWCA on March 20, 23, and 24, 2020, no evidence of recent flow along the East Tributary was observed, nor were any indicators of seasonal flows present. Photographs B-11 and B-12 in Appendix B of the SWCA’s report depict typical conditions along the channel and demonstrate the lack of a riparian corridor, marginal channel morphology, and presence of upland vegetation within the mapped ordinary high water mark (OHWM); and no adjacent wetlands are present.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

In addition to SWCA's field assessment, the APT was run for the following additional dates in conjunction with reviewing satellite imagery of the review area: January 20, 2013 and December 10, 2004 (see document 2020-169 ATP Batch Result East Tributary.pdf, St. Anthony - East Tributary - Satellite image 2013-01-20.PNG and St. Anthony - East Tributary - Satellite image 2004-12-10.PNG). The date of January 20, 2013 was selected because it is in the wet season with satellite imagery available. The date of December 10, 2004 was selected because it is in the wet season with satellite imagery available and the APT was listed as "Normal Conditions". Additionally, within the previous 30 days there were 5 precipitation events, including one event with over 1 inch of recorded precipitation. No surface water or indication of recent flows were observed in the stream channel for these dates. As such, and in consideration of the other information provided above, it has been determined that this stream channel only experiences flows in response to rain events and, therefore, is ephemeral.

Meyer Draw 10,912-foot channel

Meyer Draw enters the review area on the north edge of the mine site and flows southeast approximately 10,912 feet before it joins with the East Tributary and becomes Arroyo del Valle, which continues to the southeastern boundary of the mine site.

SWCA reported that over the dates of March 20, 23 and 24 of 2020 Meyer Draw contained flows of approximately 0.25–0.5 cubic feet per second (cfs) in portions of the channel along with dry reaches interspersed throughout the site (see Photographs B-1 through B-8, with standing or flowing water more prevalent within its northern end (see Photographs B-1 and B-2). However, it was noted that the water observed within the stream channel is attributable to upstream groundwater pumping with some influence of local precipitation (this is further discussed below). Furthermore, groundwater elevations in proximity to Meyer Draw range from approximately 50 feet at Monitoring Well [MW]-3 to 108 feet at MW-1 below the surface elevation (Intera 2020).

As just mentioned, a major contributing factor to the presence of some surface water in Meyer Draw is groundwater pumping to irrigate fields and overflow from stock ponds for livestock upstream of the review area. Exclusion (7) of the Navigable Waters Protection Rule (NWPR) is for artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease (22338 Federal Register/Vol. 85, No. 77). In the case of Meyer Draw, it would no longer exhibit surface water except in response to storm events if the upstream groundwater pumping ceased.

Regarding whether the pumping of groundwater should be included as base flow, 33 CFR Part 328 states:

"Most perennial and intermittent rivers in the Southwest are groundwater dependent, flowing primarily in a baseflow regime and supported by discharge from a connected regional or alluvial



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

aquifer or both. . . [P]art of the baseflow is often sustained or augmented by slow drainage of a shallow alluvial aquifer from past flooding.” (22276 Federal Register / Vol. 85, No. 77).

As stated above, based on monitoring well data the groundwater elevations in proximity to Meyer Draw range from approximately 50 feet to 108 feet below the surface elevation (Intera 2020). As such, it can be concluded that a hydrologic connection to groundwater is not present for the reach of this stream channel within the review area.

Review of satellite imagery from January 20, 2013, which falls within the wet season, showed surface water and ice within the Rio San Jose, which is downstream of the mine site. However, no surface water was present in Meyer Draw. Based on the information provided in SWCA’s report and other information reviewed, it has been determined that Meyer Draw is an ephemeral stream channel.

Arroyo del Valle 1918-foot channel

Arroyo del Valle is in the southeast corner of the review area. It originates at the confluence of Meyer Draw and the East Tributary and flows south to the Arroyo Conchas, which in turn flows into the Rio San Jose approximately 13 miles downstream.

SWCA reported that standing water and minimal flow was observed in the Arroyo del Valle during fieldwork, with that flow terminating near the downstream part of the review area. However, monitoring well data indicates that there is not a connection to groundwater. Located downgradient from Meyer Draw, the presence of surface water in the channel is the result of the upstream pumping of groundwater and precipitation events. As such, Arroyo del Valle is also determined to be an ephemeral stream channel.

Drainages A through E

According to the Aquatic Resources Delineation Report, Drainages A through E were formed from stormwater flows down steep mine slopes with highly erodible soils. Upon examining the photographs in the report, these features do not exhibit a bed and bank and, therefore, are not waters of the U.S (WOTUS).

Pit 1 East and Pit 1 West wetlands

There are two open water areas in Pit One. These are designated as Pit 1 East Wetland and Pit 1 West Wetland in the Aquatic Resources Delineation Report prepared by SWCA. Pit 1 is a closed depression with the open water areas situated approximately 190 feet below the eastern edge of Pit 1; and there is no surface hydrologic connection between the open water areas and Meyer Draw. The ground surface elevation in the current Pit 1 bottom is as much as 100 feet below Meyer Draw, which is the lowest recorded point within the review area. Based on review of



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

historical aerial imagery from United States Geological Service on October 1, 1951 and November 11, 1974, Pit 1 was excavated in uplands (see document 2020-169 Historic Aerial Imagery.pdf). Because this depression does not impound jurisdictional waters, and was constructed in uplands as part of mining activities, these wetland features meet the (b)(9) category of exclusions under the NWPR:

“(b)(9) Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel.” 33 C.F.R. 328.3(b)(9).

Conclusion

Based on the information provided in SWCA’s report, soil and water table data, review of aerial imagery, and current regulations, it is determined that the review area does not contain WOTUS.

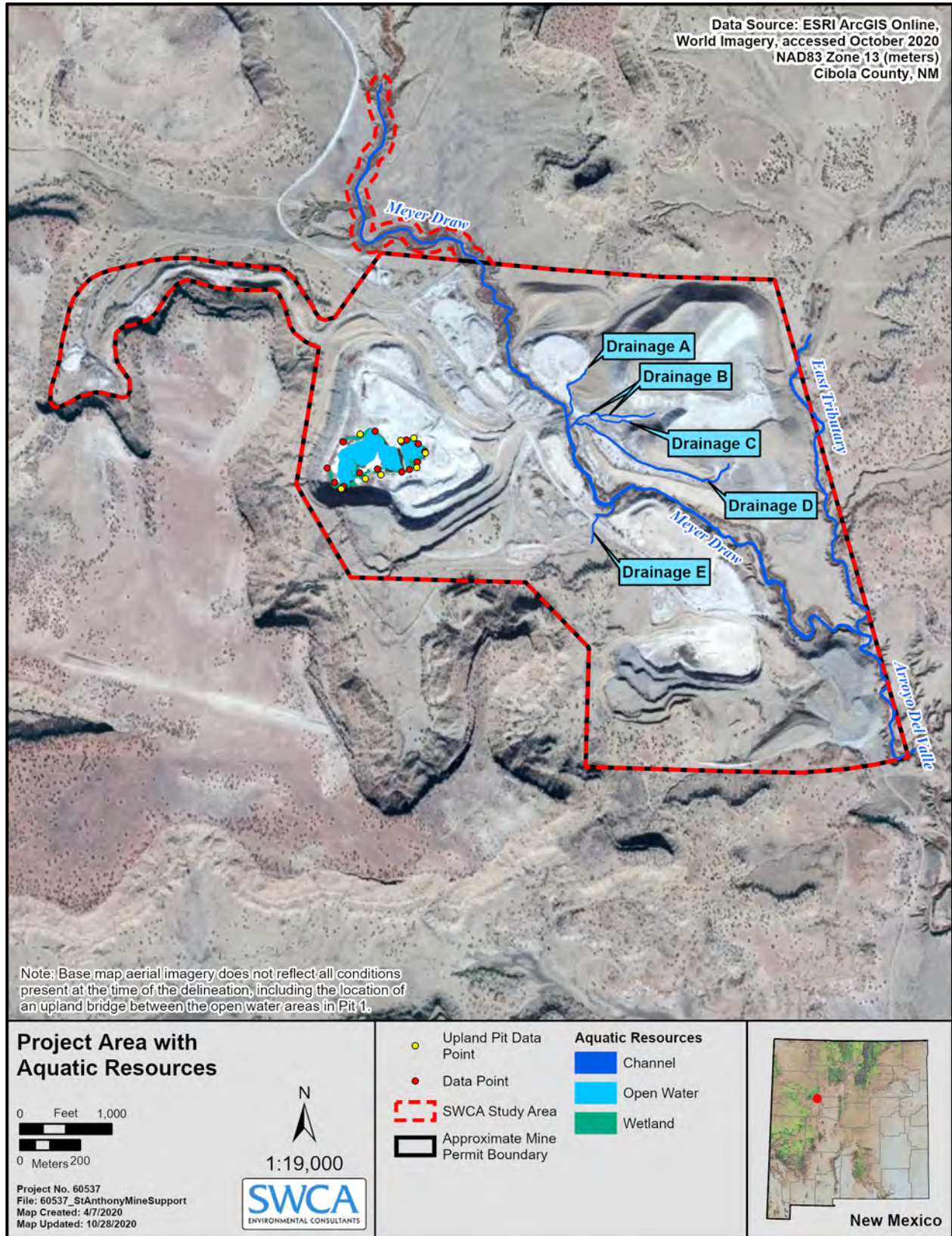


Figure A-2. Site aquatic resources inventory map.

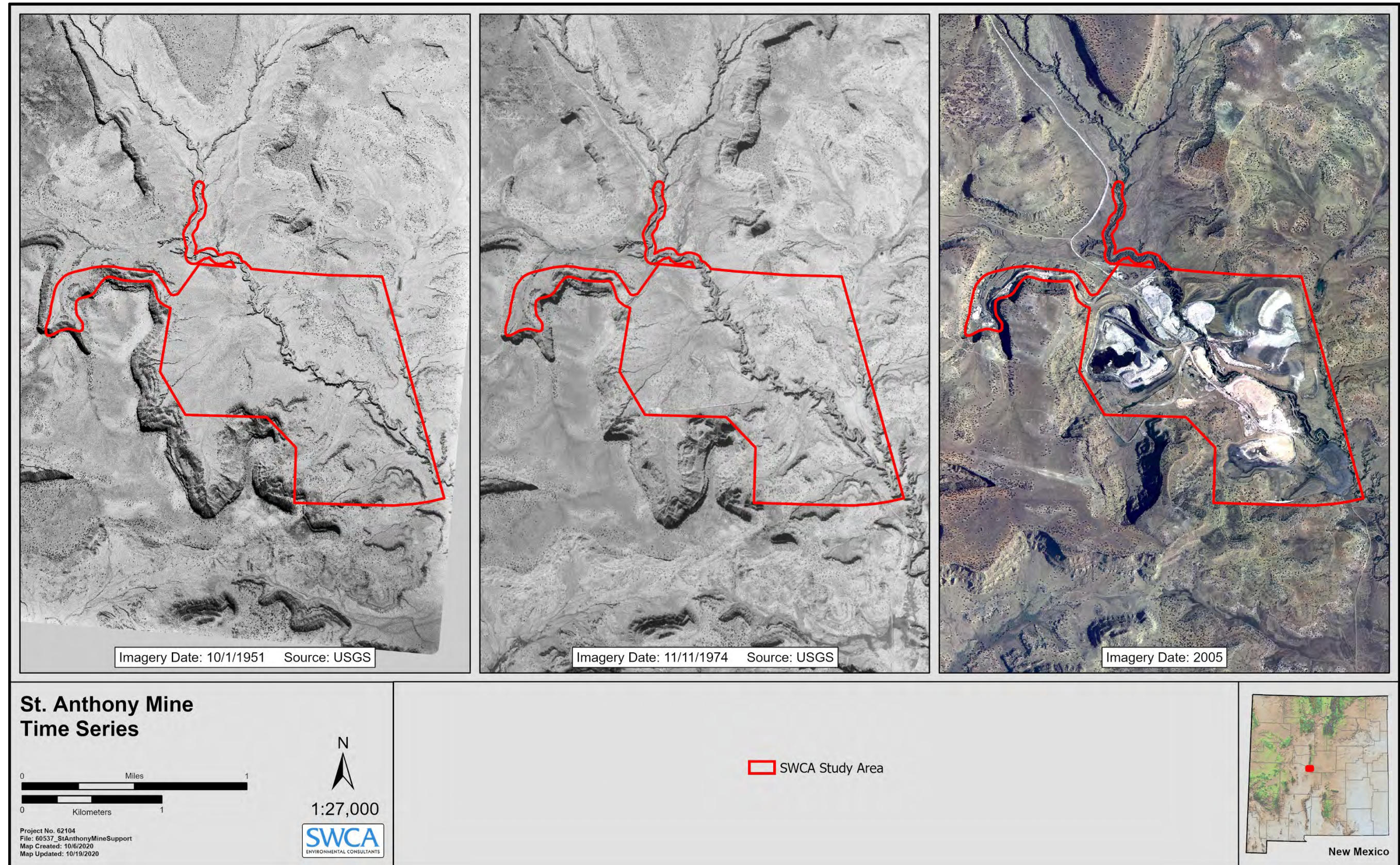


Figure A-5. Historic conditions at the Site.



Photograph B-1. North end of Meyer Draw, facing south.



Photograph B-2. Meyer Draw just inside north of Site, facing south.



Photograph B-3. Meyer Draw where head-cutting starts just below north road crossing.



Photograph B-4. Meyer Draw roughly midway through the Site.



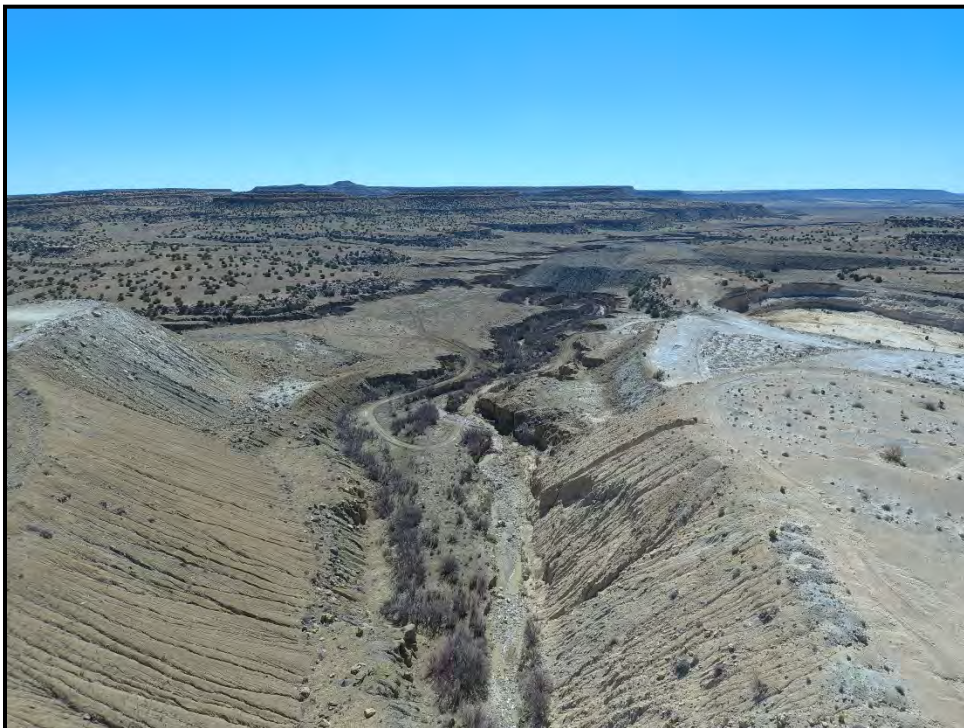
Photograph B-5. Meyer Draw roughly midway through the Site, facing north from roughly 150 feet. Drainage A merges into Meyer Draw from the east.



Photograph B-6. Meyer Draw roughly midway through the Site, facing east.



Photograph B-7. Meyer Draw near the southern road crossing.



Photograph B-8. Meyer Draw roughly midway through the Site, facing south toward the confluence with East Tributary and formation of Arroyo del Valle.



Photograph B-11. East Tributary near confluence with Meyer Draw.



Photograph B-12. Head-cut area at top of the East Tributary.



Photograph B-15. Drainage B, facing northwest.



Photograph B-16. Drainage C, facing northwest.



Photograph B-17. Drainage D, facing north.



Photograph B-18. Overview of Drainages B, C, and D, facing southeast.



Photograph B-19. Drainages A, B, C, and D at their outfalls to Meyer Draw from the east.



Photograph B-20. Drainage E, facing south.



Photograph B-21. Drainage E at the outfall to Meyer Draw.



Photograph B-22. Overview of Drainage E, facing west-northwest.



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): 09-SEP-2020

ORM Number: SPA-2020-00200-ABQ

Associated JDs: N/A

Review Area Location¹:

State/Territory: NM City: SE of Nambe Pueblo and W of Nambe Falls

County: Santa Fe County

Center Coordinates of Review Area: Latitude 35.852435 Longitude -105.915026

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
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

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 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

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))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Arroyo	0.06 acres	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool	The aquatic feature is an ephemeral stream channel. See section III. C. for more details.

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 Request Form*
This information is and is not sufficient for purposes of this AJD
Rationale: The information outlined below was supplemented by the Corps in order to aid in the decision.
- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: Onsite Photographs (7/31/20)
- Corps Site visit(s) conducted on: July 31, 2020
- Previous Jurisdictional Determinations (AJDs or PJDs): *N/A*
- Antecedent Precipitation Tool: Detailed discussion in Section III.B.
- USDA NRCS Soil Survey: *Nambe Pueblo/Low Water Crossing JD (8/21/20)*
- USFWS NWI maps: *Title(s) and/or date(s)*.
- USGS topographic maps: *Title(s) and/or date(s)*.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS National Hydrograph Dataset (8/21/2020)
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	United States Department of Agriculture, Natural Resources Conservation Service. 2006. <i>Land Resource Regions and Major Land Resource Areas of the United States, the Caribbean, and the Pacific Basin</i> . U.S. Department of

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 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

	<p>Agriculture Handbook 296.</p> <p>United States Department of Agriculture, Natural Resources Conservation Service. 2020. <i>Ecological Site R035XG114NM Gravelly</i>. Ecological Site Descriptions.</p>
--	---

- B. Typical year assessment(s):** The Antecedent Precipitation Tool (APT) was used to determine if the site visit was conducted during a climatological “typical year” for the review area. Data was gathered from six (6) weather stations located approximately 18.9-miles (Santa Fe Co MUNI AP), 6.6-miles (Tesuque 0.7 SSW), 5.1-miles (Pojoaque 1.0 E), 16.45 (Santa Fe E), 12.94-miles (Española), and 23.3-miles (Turquoise Bonanza CK) from the review area. Results from the APT note that the review area is currently in the dry season and experiencing severe drought. However, the results indicate that the field visit was conducted during normal conditions for the rolling 30-year period.
- C. Additional comments to support AJD:** The review area encompasses approximately 0.10-acres and consists of a graded earthen low water crossing situated within an aquatic feature that contributes surface water flow to the Rio Nambe. The site is located within the Hydrologic Unit Code (HUC)-12 boundary of the Rio Nambe (No. 130201011201) in Nambe Pueblo, Santa Fe County, NM. This area falls within the Natural Resources Conservation Service’s (NRCS) designated Land Resource Region (LRR) D-Western Range and Irrigated Region, specifically within Major Land Resource Area (MLRA) 36-Southwestern Plateaus, Mesas, and Foothills. This MLRA is located on the intermontane plateaus where the landforms are mostly controlled by underlying sedimentary rock formations. Elevations within the MLRA generally range from 4,600 to 8,500 feet but can reach heights of 9,300 feet. Average annual precipitation for the region ranges from 10 to 16 inches. Precipitation occurs in winter in the form of snow, but the region is characterized by cold dry winters in which moisture is much less than in the summers. Generally, the majority of the annual precipitation within this region occurs during the monsoon season from July to September. The NRCS Web Soil Survey indicates the review area contains primarily a Levante-Riverwash complex, 1 to 3 percent slopes, and Ohke sandy loam, 1 to 3 percent slopes. The soils are categorized as being excessively drained and somewhat excessively drained, respectively.

As part of the JD assessment, Google Earth aerial images of the review area dated June 2017, November 2015, October 2013, September 2011, June 2011, September 2011, July 2005, April 2005, October 2004, September 2003, and December 2002 were examined. Evidence of flow (i.e. defined channel devoid of vegetation) was observed within the aerial images of the review area. However, none of the images captured active flow events or onsite ponding. Digital Globe images of the review area dated June 28, 2020, April 27, 2020, June 22, 2019, April 19, 2019, and July 11, 2018 yielded the same results.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

An onsite assessment of the review area was conducted on August 31, 2020. The aquatic feature upstream and downstream of the graded low water crossing exhibited marginal signs of a bed and bank and indicators of an ordinary high-water mark (OHWM) [e.g. sediment sorting, minor breaks in slope, & gravel sheets]. The vegetation lining the streambank corridor is composed of mature upland plants, specifically, Sagebrush (*Artemisia sp.*) and Apache plume (*Fallugia paradoxa*). No riparian vegetation or wetlands were identified within the review area.

It has been determined that the aquatic feature evaluated as part of this review is an ephemeral stream channel. The marginal stream bed and bank, the lack of observed flow or ponding during the site assessment and aerial imagery review, the low likelihood of snowpack accumulation based on the precipitation patterns of the region, the lack of riparian vegetation, and the presence of mature upland vegetation within the review area are indications that the aquatic feature experiences flow for short durations of time after perceptions events (i.e. rain or snow). Furthermore, the USGS' National Hydrograph Dataset classifies the aquatic feature as an ephemeral stream channel. As such, the aquatic feature is excluded from regulation under the National Waters Protection Rule.

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.

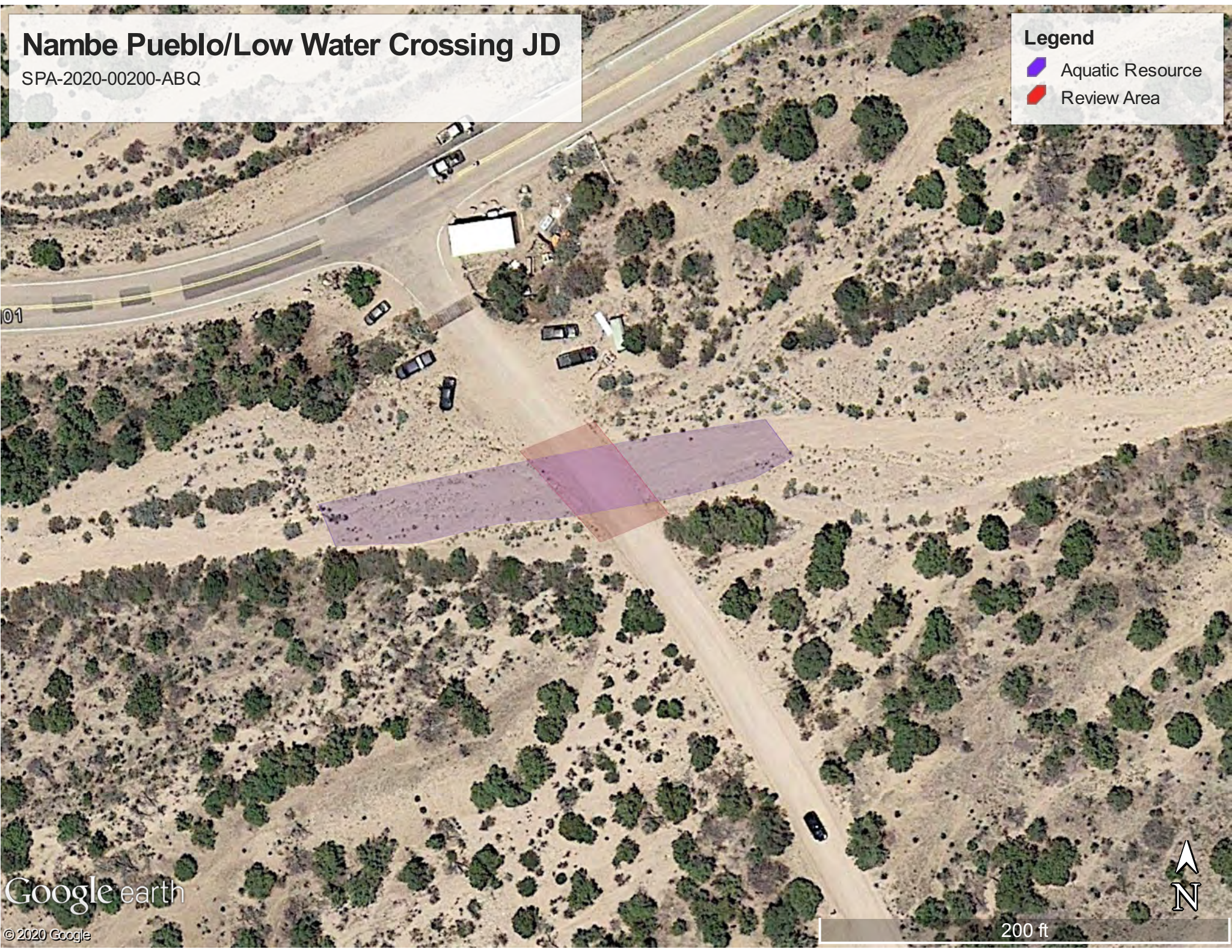
⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.

Nambe Pueblo/Low Water Crossing JD

SPA-2020-00200-ABQ

Legend

-  Aquatic Resource
-  Review Area



Google earth

© 2020 Google



200 ft



**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): 3/29/2021
 ORM Number: NWO-2014-02239-MTB
 Associated JDs: NWO-2014-02239_EgliseBackBowl-AJD(1/8/2018); NWO-2014-02239_EglisePhasel-AJD(11/2/2016);
 Review Area Location¹: State/Territory: MT City: Big Sky County/Parish/Borough: Madison
 Center Coordinates of Review Area: Latitude 45.202669°, Longitude -111.439010°

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
 - 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
BB5	405	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.
			Perennial riverine unconsolidated bottom located at Latitude 45.202958, Longitude -111.439873. Contributes surface water flow directly to an unnamed tributary in a typical year (identified as XX2 on 2018 AJD and BBF on 2016 AJD) which flows to Muddy Creek which flows to South Fork West Fork Gallatin River which flows to the West Fork Gallatin River which flows to the Gallatin River and to the Missouri River, a Section 10 TNW.

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
BB5a	220	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial riverine unconsolidated bottom located at Latitude 45.202493, Longitude -111.439705. BB5a contributes surface water flow directly to BB5 in a typical year. See discussion for BB5.
BB5b	290	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial riverine unconsolidated bottom located at Latitude 45.202746, Longitude -111.439853. BB5b contributes surface water flow directly to BB5 in a typical year. See discussion for BB5.
BB6	385	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine unconsolidated bottom located at Latitude 45.203013, Longitude -111.440511. BB6 contributes surface water flow directly to BB5 in a typical year. See discussion for BB5.
BB6a	220	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.202718, Longitude -111.440348. BB6a contributes surface water flow directly to BB6 in a typical year. See discussion for BB6.
BB7	440	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.203637, Longitude -111.441628. BB7 contributes surface water flow directly to XX2b in a typical year. XX2b determined to be jurisdictional in 2018 as it connects to XX2 which connects to BBF which connects to Muddy Creek, and eventually to the Missouri River.
BB8	705	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.203489, Longitude -111.441998. BB8 contributes surface water flow directly to BB12 in a typical year, which flows to BB13, which flows to XX2c. XX2c determined to be jurisdictional in 2018 as it connects to XX2 which connects to BBF which connects to Muddy Creek, and eventually to the Missouri River.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
BB8a	480 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.202847, Longitude -111.442281. BB8a contributes surface water flow directly to BB8 in a typical year. See discussion for BB8.
BB9	590 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.203184, Longitude -111.442483. Wetland E3-4 is adjacent to both BB9 and BB8. BB9 contributes surface water flow directly to BB8 in a typical year. See discussion for BB8.
BB10	455 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.203914, Longitude -111.442222. Wetland E3-4 is adjacent to both BB10 and BB8. BB10 contributes surface water flow directly to BB8 in a typical year. See discussion for BB8.
BB11	280 linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.204471, Longitude -111.443293. BB11 is adjacent to E3-4. BB11 contributes surface water flow directly to BB8 in a typical year. See discussion for BB8.
BB12	575 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial riverine streambed located at Latitude 45.204835, Longitude -111.443441. BB12 contributes surface water flow to BB13 downgradient from the project area in a typical year. See discussion for BB13.
BB13	520 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial riverine unconsolidated bottom located at Latitude 45.204831, Longitude -111.443921. BB13 contributes surface water flow to XX2c in a typical year. XX2c determined to be jurisdictional in 2018 as it connects to XX2 which connects to BBF which connects to Muddy Creek, and eventually to the Missouri River.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
BB13a	90	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial riverine unconsolidated bottom located at Latitude 45.204949, Longitude -111.443873. BB13a contributes surface water flow to BB13 in a typical year. See discussion for BB13.
BB14	240	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.199318, Longitude -111.440000. BB14 connects lobes of E3-3 and is adjacent to wetland E3-3. Wetland E3-3 is adjacent to BB16. BB14 contributes surface water flow to BB16 in a typical year. See discussion for BB16.
BB15	75	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.199782, Longitude -111.440438. BB15 connects lobes of E3-3 and is adjacent to wetland E3-3. Wetland E3-3 is adjacent to BB16. BB15 contributes surface water flow to BB16 in a typical year. See discussion for BB16.
BB16	340	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.200313, Longitude -111.440598. BB16 contributes surface water flow in a typical year to BB6 which flows to BB5. See discussion for BB5.
BB17	540	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.199564, Longitude -111.440617. BB17 contributes surface water flow in a typical year to BB16. See discussion for BB16.
BB18	680	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.201482, Longitude -111.441190. BB18 contributes surface water flow in a typical year to BB7. See discussion for BB7



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
BB18a	10	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent riverine streambed located at Latitude 45.201867, Longitude -111.441054. BB18a contributes surface water flows in a typical year to BB18 which flows to BB7. See discussion for BB7.

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.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland BB12	0.007	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.205407, Longitude -111.443054. Wetland BB12 is adjacent to BB12 and meets the criteria for adjacency as identified in the Navigable Waters Protection Rule (NWPR). See discussion for BB12.
E3-1	0.026	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.197559, Longitude -111.439248. Slope/depressional wetland. Surface connection verified between E3-1 and an unnamed tributary which flows to Third Yellow Mule Creek outside the project area. E3-1 meets the criteria for adjacency as identified in the NWPR. Third Yellow Mule Creek flows to South Fork West Fork Gallatin River which flows to the West Fork Gallatin River which flows to the Missouri River, a Section 10 TNW.
E3-3	0.984	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.198616, Longitude -111.439913. Slope wetland. Wetland E3-3 is adjacent to BB16 which flows to BB6 then to BB5. See discussion for BB5. Wetland E3-3 meets the criteria for adjacency as identified in the NWPR.
E3-4	0.272	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.204109, Longitude -111.442680. Slope/riverine wetland. Wetland E3-4 is adjacent to BB8. See discussion for BB8. Wetland E3-4 meets the criteria for adjacency as identified in the NWPR.
E3-6	0.024	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.205151, Longitude -111.443565. Slope wetland. Wetland E3-6 is adjacent to BB12. See discussion for BB12. Wetland E3-6 meets the criteria for adjacency as identified in the NWPR.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland BB5	0.016	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.203060, Longitude -111.439904. Wetland BB5 is adjacent to BB5 and meets the criteria for adjacency as identified in the NWPR. See discussion for BB5.
Wetland BB6	0.017	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.202919, Longitude -111.440515. Wetland BB6 is adjacent to BB6 and meets the criteria for adjacency as identified in the NWPR. See discussion for BB6.
Wetland BB6a	0.007	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland located at Latitude 45.202859, Longitude -111.440474. Wetland BB6a is adjacent to BB6a and meets the criteria for adjacency as identified in the NWPR. See discussion for BB6a.
Wetland BB8	0.016	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Palustrine emergent wetland. Located at Latitude 45.203981, Longitude -111.442355. Wetland BB8 is adjacent to BB8 and meets the criteria for adjacency as identified in the NWPR. See discussion for BB8.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
E3-5	0.008	acre(s)	(b)(1) Non-adjacent wetland.	Palustrine emergent wetland located at Latitude 45.205043, Longitude -111.443100. Slope wetland. E3-5 is an isolated wetland with no adjacency to BB12 or E3-4 found. Wetland is isolated and excluded because it does not meet the criteria for adjacency as identified in the NWPR.
E3-2	0.026	acre(s)	(b)(1) Non-adjacent wetland.	Palustrine emergent wetland located at Latitude 45.197957, Longitude -111.440164. Depressional wetland. No surface connection found between E3-2 and E3-3. There is a slight mound between E3-2 and the slope leading down to E3-3. Because of this, E3-2 drains to the west. Wetland is isolated and excluded because it does not meet the criteria for adjacency as identified in the NWPR.
E3-7	0.017	acre(s)	(b)(1) Non-adjacent wetland.	Palustrine emergent wetland located at Latitude 45.202645, Longitude -111.441840. Slope wetland. No surface connection observed to BB8. Wetland is isolated and excluded because it does not meet the criteria for adjacency as identified in the NWPR.

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland BB4	0.013	acre(s)	(b)(1) Non-adjacent wetland.	Palustrine emergent wetland located at Latitude 45.202967, Longitude -111.437976. Wetland is isolated and excluded because it does not meet the criteria for adjacency as identified in the NWPR.
BB1	320	linear 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.	Intermittent riverine streambed located at Latitude 45.204497, Longitude -111.434644. Ephemeral channel. Bed and bank fades into scree. Termini: 45.204864, -111.435157. BB1 does not contribute surface water flow to a water of the US in a typical year.
BB2	485	linear 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.	Ephemeral riverine streambed located at Latitude 45.203080, Longitude -111.436564. Continues outside of project area for approximately 360 feet. Where it ends, the channel becomes braided and fades. Potential channels below this did not show scour or recent signs of water flow. This channel has a high bedload and channels appear to regularly seal themselves off and force new channels to form. Termini: 45.204476, -111.437293. BB2 does not contribute surface water flow to a water of the US in a typical year.
BB2a	45	linear 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.	Ephemeral riverine streambed located at Latitude 45.202831, Longitude -111.436274. A side channel that feeds into BB2. See discussion for BB2.
BB2b	350	linear 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.	Ephemeral riverine streambed located at Latitude 45.203198, Longitude -111.436309. A side channel that feed into BB2. See discussion for BB2.
BB3	95	linear feet	(b)(1) Surface water channel that does not contribute surface water	Ephemeral riverine streambed located at Latitude 45.203155, Longitude -111.437585. A narrow, short channel that does not continue outside of the project area. Termini: 45.203260, -111.437773.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			flow directly or indirectly to an (a)(1) water in a typical year.	BB3 does not contribute surface water flow to a water of the US in a typical year.
BB4	270	linear 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.	Ephemeral riverine streambed located at Latitude 45.202860, Longitude -111.437976. Continues outside of project area for approximately 125 feet. Channel fades and does not have a surface connection to down gradient waters of the U.S. Termini: 45.203551, -111.438511. BB4 does not contribute surface water flow to a water of the US in a typical year.
BB19	410	linear 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.	Ephemeral riverine streambed located at Latitude 45.201799, Longitude -111.441649. A narrow channel that fades into hillslope soils. No surface connection to waters of the U.S. found. Termini: 45.202408, -111.441520. BB19 does not contribute surface water flow to a water of the US in a typical year.

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: [“The Yellowstone Club Eglise Phase 3 Wetland Delineation Report”](#) dated October 2019 on behalf of the consultant from Confluence Consulting, Inc.

This information is sufficient for purposes of this AJD.

Rationale: The consultant used the Corps' 1987 Wetland Delineation Manual and Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region and the positive indicators of wetland hydrology, hydric soils, and hydrophytic vegetation to complete the wetland delineation used for this site.

- Data sheets prepared by the Corps: *N/A*
- Photographs: Aerial: [Google Earth July 2014, Nov 2011, Sept 2009, Aug 2009, Dec 2005, Sept 2005, July 2005, Aug 1995,](#)
- Corps site visit(s) conducted on: [On site conducted by J. Metzler on July 23, 2020 and virtually conducted January 15 and March 22, 2021 by J. Borrego.](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [2016 & 2018 JDs for NWO-2014-02239-MTB](#)
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: [USDA NRCS Web Soil Survey Map titled “NWO-2014-02239-MTB” generated March 22, 2021 from: https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx](#)
- USFWS NWI maps: [USFWS National Wetland Inventory Map titled “NWO-2014-02239-MTB” generated January 15, 2021 from: https://www.fws.gov/wetlands/data/mapper.HTML](#)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

USGS topographic maps: [USGS National Map Viewer](#) titled “NWO-2014-02239-MTB” generated March 22, 2021 from: <https://apps.nationalmap.gov/viewer/>

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	USDA NRCS National Water and Climate Center Report Generator 2.0 titled “Lone Mountain (590) Montana SNOTEL Site – 8880 ft Reporting Frequency: Monthly; Date Range: Mar 2020 to Mar 2021” generated March 22, 2021 from: https://wcc.sc.egov.usda.gov/reportGenerator/
NOAA Sources	N/A.
USACE Sources	N/A.
LiDAR data/maps	N/A.
Other Sources	N/A.

B. Typical year assessment(s): Maps on Google Earth were reviewed to conduct an electronic site visit. Remote tools were used to evaluate imagery throughout the past 30 years and growing seasons. A review of aerial imagery from August 1995 to July 2014 shows very little change to the project area. Flow regimes for the stream channels were assessed from March 2020 to March of 2021 and compared to normal stream volumes from the past 30 years. Stream flow volumes over the last year ranged from between 79% to 121% of normal volumes when compared to the last 30 years. March 2020 to September 2020 were slightly above normal while November 2020 to March 2021 were slightly below normal. The project area is located at a high elevation (above 8,700 feet) and streams flow in response to seasonal snow melt during the growing season and not in direct response to rainfall.

C. Additional comments to support AJD: The jurisdictional streams in this AJD, BB5, BB5a, BB5b, BB6, BB7, BB8, BB8a, BB9, BB10, BB11, BB12, BB13, BB13a, BB14, BB15, BB16, BB17, BB18, and BB18a, are tributaries connected to the Gallatin River which is an (a)(2) water. The Gallatin River flows into the Missouri River which is an (a)(1) water. The jurisdictional wetlands in this AJD, wetland BB12, E3-1, E3-3, E3-4, E3-6, wetland BB5, wetland BB6, wetland BB6a, and wetland BB8 are all adjacent wetlands to tributaries of the Gallatin River.

ATTACHMENT 14



**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): 12/7/2020
 ORM Number: SAJ-2010-01702
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Florida City: Parrish County/Parish/Borough: Manatee
 Center Coordinates of Review Area: Latitude 27.604701 Longitude -82.489718

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
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
N/A.	N/A.	N/A.	N/A.

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 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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	0.45	acre(s)	(b)(6) Prior converted cropland.	Ditch 1 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1957. Historical aerials prior to 1957 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee-Okeelanta association) which have a Hydric Rating of (Hydric 66-99%). They differ from the adjacent wetland soils (Wabasso fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of Ditch 1, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 2	0.86	acre(s)	(b)(6) Prior converted cropland.	Ditch 2 is an agricultural ditch that was excavated from an area that was historically an upland prior to the 1980's. Historical aerials prior to 1980's show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of Ditch 2, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 3	0.46	acre(s)	(b)(6) Prior converted cropland.	Ditch 3 is an agricultural ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating

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.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of Ditch 3, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 4	0.66	acre(s)	(b)(6) Prior converted cropland.
			Ditch 4 is an agricultural ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of Ditch 4, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 5	0.07	acre(s)	(b)(6) Prior converted cropland.
			Ditch 5 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 66-99%). Upon excavation of Ditch 5, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			surface connection prior to ditching.
Ditch 6	0.31	acre(s)	(b)(6) Prior converted cropland.
Ditch 7	0.21	acre(s)	(b)(6) Prior converted cropland.
Ditch 8	0.40	acre(s)	(b)(6) Prior converted cropland.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 9	0.55	acre(s)	(b)(6) Prior converted cropland.
			Ditch 9 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Delray complex) which has a Hydric Rating of (Hydric 66-99%). Upon excavation of Ditch 9, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 10	0.50	acre(s)	(b)(6) Prior converted cropland.
			Ditch 10 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Canova, Anclote, and Okeelanta soils) which are (Hydric 100%) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 10, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 11	4.18	acre(s)	(b)(6) Prior converted cropland.	Ditch 11 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Canova, Anclote, and Okeelanta soils) which are (Hydric 100%) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 11, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 12	0.74	acre(s)	(b)(6) Prior converted cropland.	Ditch 12 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 12, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 13	0.14	acre(s)	(b)(6) Prior converted cropland.	Ditch 13 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			(Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 13, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 14	0.15	acre(s)	(b)(6) Prior converted cropland. Ditch 14 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 14, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 15	0.29	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the Ditch 15 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso,



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			conditions of (c)(1).	wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 15, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 16	0.13	acre(s)	(b)(6) Prior converted cropland.	Ditch 16 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 16, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 17	0.11	acre(s)	(b)(6) Prior converted cropland.	Ditch 17 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Floridana-Immokalee Okeelanta association) which are (Hydric 66%-99%) and (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 17, a (b)(6) water, this ditch was connected to the now interconnected



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 18	0.27	acre(s)	(b)(6) Prior converted cropland.
			Ditch 18 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Canova, Anclote, and Okeelanta soils) which are (Hydric 100%) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 18, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 19	0.14	acre(s)	(b)(6) Prior converted cropland.
			Ditch 19 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (EauGallie-EauGallie wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 19, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 20	0.07	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 20 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Bradenton fine sand, limestone substratum) which has a Hydric Rating of (Hydric 100%). Upon excavation of Ditch 20, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.
Ditch 21	0.99	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Ditch 21 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Bradenton fine sand, limestone substratum) which has a Hydric Rating of (Hydric 100%) and (Delray complex) which has a Hydric Rating of (Hydric 66%-99%). Upon excavation of Ditch 21, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.
Ditch 22	0.22	acre(s)	(b)(6) Prior converted cropland.	Ditch 22 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			within this area. Additionally, soils within this area (Bradenton fine sand, limestone substratum) which has a Hydric Rating of (Hydric 100%) and (Delray complex) which has a Hydric Rating of (Hydric 66%-99%). Upon excavation of Ditch 22, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.
Ditch 23	0.10	acre(s)	(b)(6) Prior converted cropland. Ditch 23 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Bradenton fine sand, limestone substratum) which has a Hydric Rating of (Hydric 100%) and (Delray complex) which has a Hydric Rating of (Hydric 66%-99%). Upon excavation of Ditch 23, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.
Ditch 24	2.02	acre(s)	(b)(6) Prior converted cropland. Ditch 24 is an agricultural ditch that was excavated from a historical (b)(1) wetland that was ditched after 1951. Historical aerials prior to 1951 show that this ditch was dug within a (b)(1) wetland. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Canova, Anclote, and Okeelanta soils) which are (Hydric 100%) and (Wabasso-Wabasso, wet, fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 0-32%). Upon excavation of Ditch 24, a (b)(6) water, this ditch was connected to the now interconnected system of ditches that have successfully



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Ditch 25	1.17	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). Ditch 25 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Floridana fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 66%-99%). Upon excavation of Ditch 25, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.
Ditch 26	0.23	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). Ditch 26 is an agricultural ditch that was excavated within a historical (a)(4) wetland system (Cabbage Slough) that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Floridana fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 66%-99%). Upon excavation of Ditch 26, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination	
OSW-1A	0.26	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	OSW-1A is an roadside ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of OSW-1A, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
OSW-1B	0.41	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	OSW-1B is an roadside ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of OSW-1B, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
OSW-1C	0.06	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	OSW-1C is an roadside ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of OSW-1C, a (b)(5) water, this ditch was connected to



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
			the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
OSW-1D	0.06	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1). OSW-1D is an roadside ditch that was excavated from an area that was historically an upland prior to the late 1950's. Historical aerials prior to 1957 show that this ditch was dug within uplands. Additionally, soils within this area are (Wabasso fine sand) which have a Hydric Rating of (Hydric 0%-32%) and (EauGallie fine sand, 0 to 2 percent slopes) which have a Hydric Rating of (Hydric 0%-32%). Upon excavation of OSW-1D, a (b)(5) water, this ditch was connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's. Historic wetlands did not have any surface connection prior to ditching.
Wetland-1	1.11	acre(s)	(b)(1) Non-adjacent wetland. Wetland 1 is an excavated wetland that was excavated within a historical (b)(1) wetland that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Floridana fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 66%-99%). Wetland 1, a (b)(1) water, is connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Wetland-2	0.22	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is an excavated wetland that was excavated within a historical (b)(1) wetland that was ditched before 1938. This ditch has been modified over the years, through redirection within the project boundary, and culverting due to the construction of I-75 and has successfully facilitated drainage within this area. Additionally, soils within this area (Bradenton fine sand, 0 to 2 percent slopes) and (Floridana fine sand, 0 to 2 percent slopes) which has a Hydric Rating of (Hydric 66%-99%). Wetland 2, a (b)(1) water, is connected to the now interconnected system of ditches that have successfully dewatered much of the site for agriculture. All ditches on site were excavated to drain wetlands that do not satisfy the conditions of (c)(1). All wetlands within the site have been converted to agricultural use for row crops since the mid-1950's.

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: [Wetland delineations, Soils, NWI, FLUCFCS; February 3, 2020.](#)

This information is and is not sufficient for purposes of this AJD.

Rationale: [Corps PM accessed additional resources to make the determination. Renaming and reclassification of jurisdictional/non-jurisdictional calls were made to original GIS data set.](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Aerials provided by applicant, available in Google Earth and historical aerials obtained from <https://ufdc.ufl.edu/aerials/map> \(1938, 1951, 1957, 1970, 1984, 1994, 2019\).](#)

Corps site visit(s) conducted on: [Date\(s\).](#)

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: [Florida Soils Map digital data from the Natural Resources Conservation Service. Date \(September 25, 2020\). Web Soil Survey website. U.S. Department of Agriculture, Natural Resources Conservation Service, Washington, D.C. \(<https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx>\); Historical Soils from 1958 \(\[https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/manateeFL1958/map02.pdf\]\(https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/manateeFL1958/map02.pdf\)\), and 1983 \(\[https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/FL081/0/map6.pdf\]\(https://www.nrcs.usda.gov/Internet/FSE_MANUSCRIPTS/florida/FL081/0/map6.pdf\)\)](#)

USFWS NWI maps: [Wetland digital data from U. S. Fish and Wildlife Service. Date \(September 25, 2020\). National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. \(<https://www.fws.gov/wetlands/data/Mapper.html>\)](#)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

USGS topographic maps: 1:24,000; Parrish, Florida (1944, 1944 w/ 1961 rev., 1973 w/ 1974 rev., 1973 w/ 1987 rev., 2012, 2015, 2018) (<https://ngmdb.usgs.gov/topoview/viewer/#15/27.6014/-82.4879>)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
Other USGS data (specify)	NHD data viewed in The National Map (https://viewer.nationalmap.gov/); NHD flowlines data viewed in Google Earth, USGS 7.5 Minute Topo Maps.
USDA Sources	NRCS soil maps and Hydric Rating by Map Unit from USDA Web Soil Survey (https://websoilsurvey.sc.egov.usda.gov/)
Other NOAA data (specify)	N/A
USACE Sources	N/A.
LiDAR data/maps	LiDAR data from South Florida Water Management District, viewed in https://www.arcgis.com/home/webmap/viewer.html
Other Sources	N/A

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

C. Additional comments to support AJD: N/A