



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): 22 OCT 2020

ORM Number: SAC-2017-01539

Associated JDs: N/A)

Review Area Location¹:

State/Territory: SC City: Little River County: Horry County

Center Coordinates of Review Area: Latitude 33.8461 Longitude -78.6480

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
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 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
Ditch	235 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)	Excluded water 3 (Ditch) is partially located in uplands and partially excavated from wetlands within the review area but do not meet the criteria of a jurisdictional water based on the following. The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland and, therefore, does not meet the criteria of a tributary as outlined in (c)(12). Flow within the feature was observed on multiple occasions to be perennial, likely in response to precipitation, runoff from the surrounding impervious areas, and groundwater. However, as outlined in the final rule, a ditch cannot render an otherwise isolated wetland jurisdictional unless the ditch itself is a tributary. Although the ditch in the review area does originate within a wetland, this specific wetland does not satisfy the requisite adjacency criteria to be an (a)(4) water itself and therefore also cannot satisfy requisite jurisdictional criteria as a tributary (a)(2) water.
Wetland 1	17.59 acres	(b)(1) Non-adjacent wetland	Wetland 1 does not abut and is not inundated by an (a)(1)-(3) water by its naturally disconnected geographical positioning within the landscape. This wetland is separated from any (a)(1)-(3) waters by a combination of natural and man-made barriers. Wetland 1 is encompassed by a natural rise in elevation to its north, east, and south cardinal directions as well as multiple county-maintained roads. The wetland is a geographically depressed, concave feature that receives stormwater runoff from the surrounding area. A man-made ditch and a single culvert located underneath Little River Neck road provide the sole outfall for Wetland 1 and establishes a hydrologic connection into a nearby tidal basin. Although the ditch does contain perennial flow, its origin within a non-adjacent wetland negates its ability to meet the criteria of a tributary as defined (c)(12) in the final rule.
Wetland 2	0.28 acres	(b)(1) Non-adjacent wetland	Wetland 2 was determined to be an excluded water based on the lack of direct hydrologic surface connection to an (a)(1), (a)(2), or (a)(3) water in a typical year. Wetland 2 is completely encompassed by uplands with no discernable connection to other WOUS.

III. SUPPORTING INFORMATION

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

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: **HPM Holdings Tract / David Prince / Wetland Delineation forms dated February 18, 2020**

This information (is) sufficient for purposes of this AJD.

Rationale: **Wetland data forms and information included in the original submittal are considered to be a reasonable representation of site conditions at the time of collection.**

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

☒ Photographs: *(aerial and other)* **2019 Google Earth Imagery / USGS National Map 3D Elevation Program (3DEP) / ESRI Basemap Map Service.**

☒ Corps Site visit(s) conducted on: **July 31, 2020, April 17, 2018, December 19, 2017, October 17, 2017**

☒ 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: **NRCS / Soil Survey Geographic Database (SSURGO) Map Service**

☒ USFWS NWI maps: **USFWS NWI - Wetlands Raster REST Map Service**

☒ USGS topographic maps: **USGS Topographic Maps / 7.5 Minute Index / Hammond Quad**

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Topographic Maps
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	USACE-SAC Regulatory Viewer
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): Antecedent Precipitation Tool (APT) data for typical year determination was calculated based on data forms submitted by the agent dated February 18, 2020 and the Corps site visit of July 31, 2020. Output from the APT tool for both dates indicated conditions onsite were within the normal range of 10-14. The condition value for the February 18, 2020, date was 14 and the July 31, 2020 date yielded a condition value of 12. Both values are within the range "Normal Conditions" and indicate that observations made during data collection and Corps site audit would be considered to be within a typical year. For this assessment, a total of 4 weather stations within a 19 mile radius were used.

C. Additional comments to support AJD: The area in review contains 31.70 acres and includes three excluded waters (identified in Section II. D above) Of these excluded waters, wetland 1 and 2 occur in

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

a geographical depression, concave in formation, and attenuates a significant amount of stormwater runoff from the surrounding areas. The surrounding areas are a mixture of commercial and residential developed area interlaced with multiple roads and other impervious surface areas. These features provide a significant amount of hydrologic input into the area in addition to precipitation and groundwater. These factors provide the basis for perennial flow of the onsite 235 linear feet of ditch that eventually discharges into a tidal basin to the north. USGS topographic maps (Figure 2) depict the area with wetland symbology but do not indicate a hydrologic connection or continuation of wetlands to another WOUS, which adds to the weight of evidence that the area in review is lower in elevation than the surrounding area.

Wetland 1 does not abut and is not inundated by an (a)(1)-(3) water by its naturally disconnected geographical positioning within the landscape and is separated from any (a)(1)-(3) waters by a combination of natural and man-made barriers. Wetland 1 is encompassed by a natural rise in elevation to its north, east, and south cardinal directions as well as multiple county-maintained roads. Wetland 2 is completely encompassed by uplands and lacks a direct or indirect surface connection to (a)(1)-(3) waters. single artificial barrier, they are determined to be non-jurisdictional. Both wetland 1 and 2 are geographically depressed, concave in formation and receive a significant volume of stormwater runoff from the surrounding area. A man-made ditch (excluded water) with a single culvert located underneath Little River Neck road provide the sole outfall for Wetland 1 and establishes a hydrologic connection a nearby tidal basin. Although the ditch does contain perennial flow, likely created by the significant amount of runoff from adjacent areas, its origin within a non-adjacent wetland negates its ability to be meet the criteria of a tributary as defined (c)(12) in the final rule. As outlined in the final rule, a ditch cannot render an otherwise isolated wetland jurisdictional unless the ditch itself is a tributary.

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

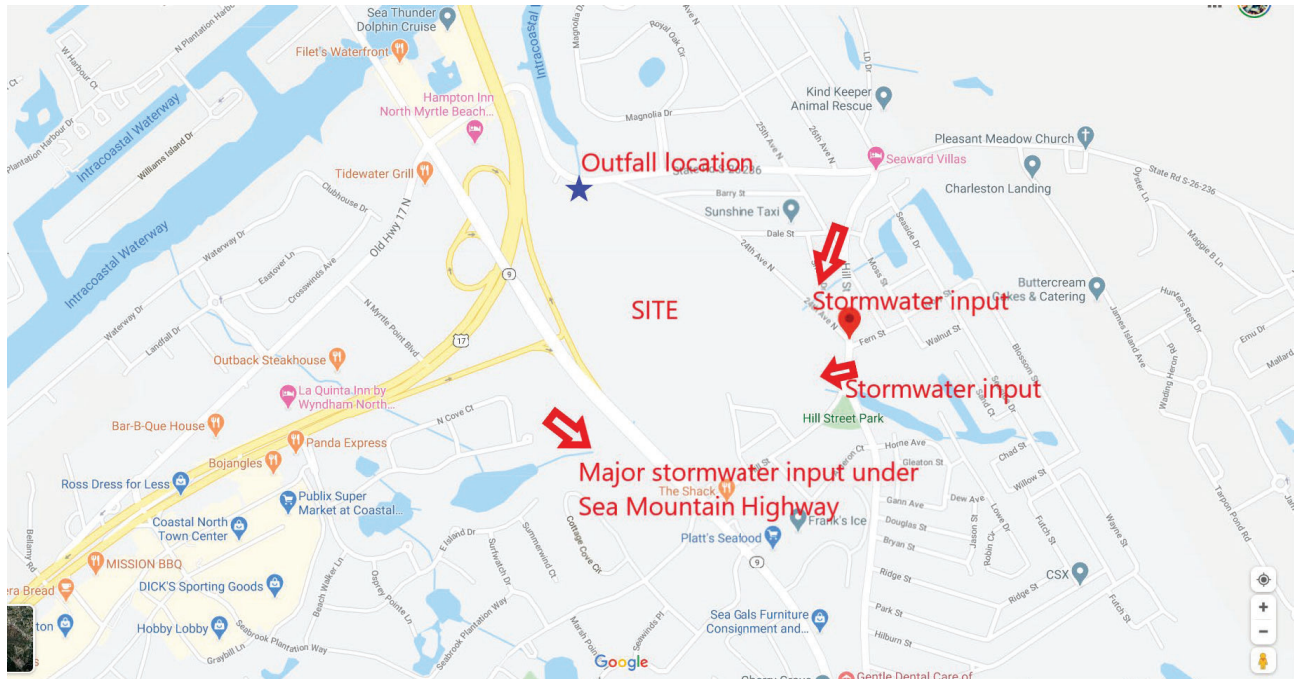


Figure 1: Google Maps graphic depicting the stormwater inputs from the surrounding areas.

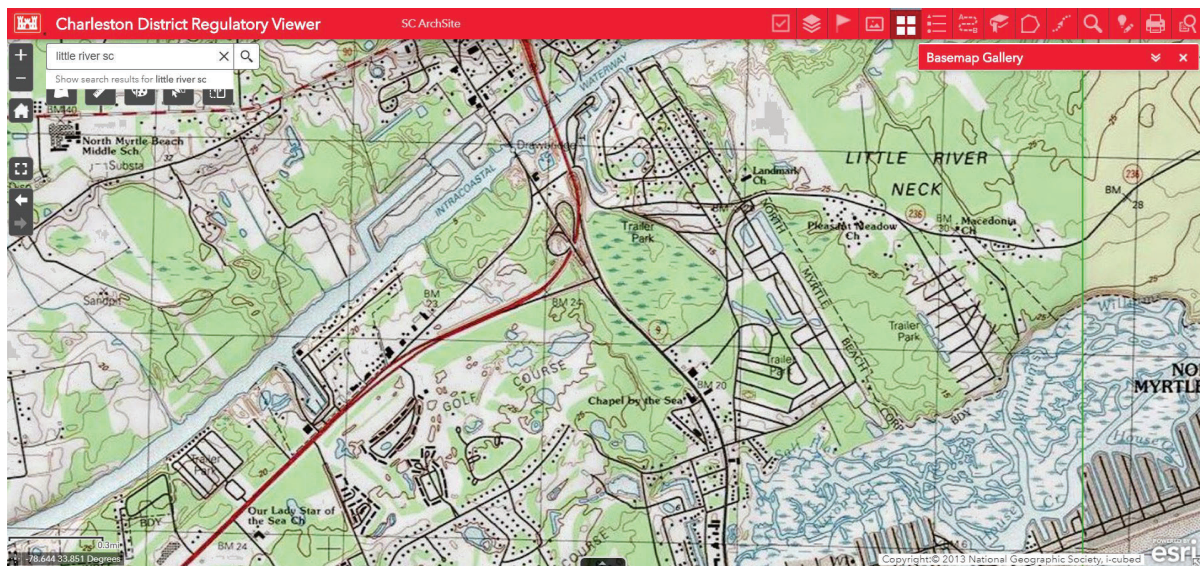


Figure 2: USGS Topographic map showing the site in relation to the surrounding development, roads, and breaks in elevation.

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

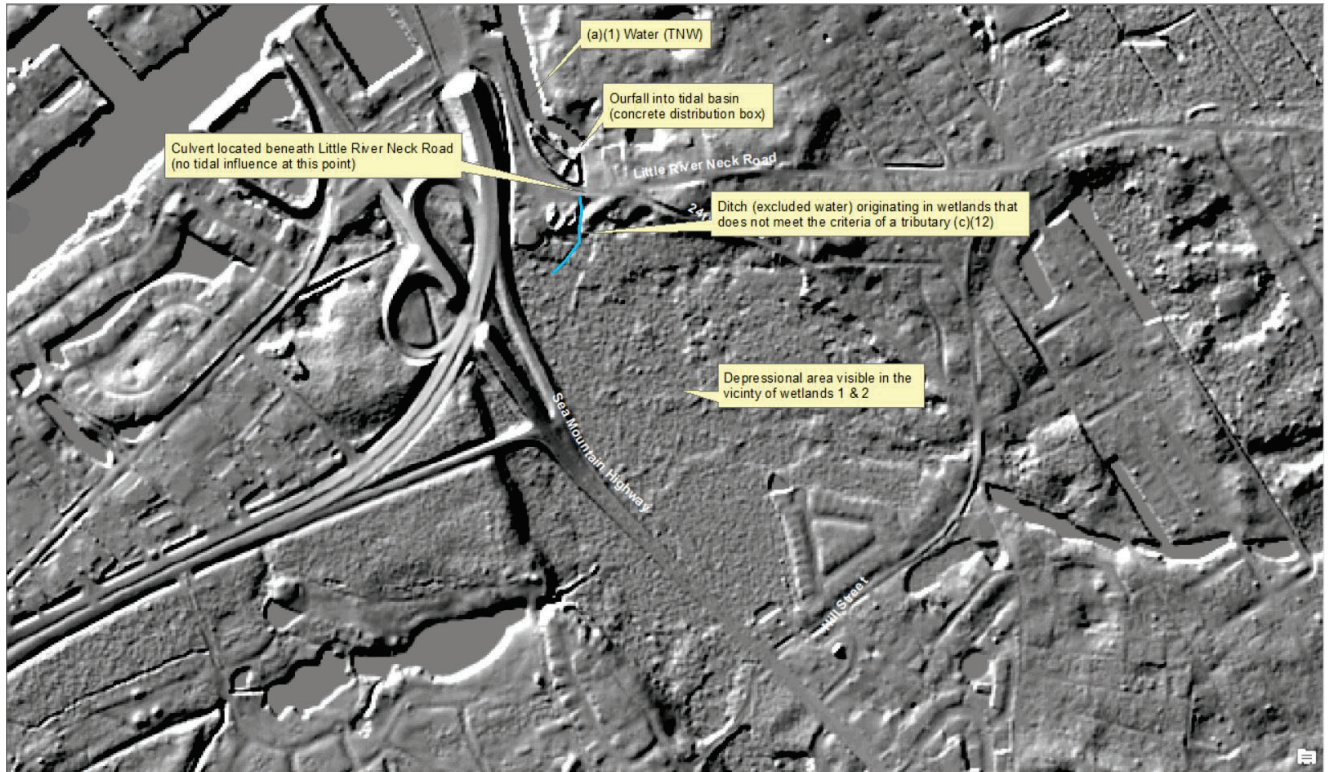


Figure 3: Horry County LiDAR imagery showing in detail the concave nature of the area in review and lack of historical continuation of wetlands to an (a)(1-3) water that would establish adjacency.

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.