



**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): 5/19/2021

ORM Number: NAB-2021-00134-M43

Associated JDs: N/A

Review Area Location¹: State/Territory: Maryland City: Warwick County/Parish/Borough: Cecil

Center Coordinates of Review Area: Latitude 39.395784 Longitude -75.833694

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.	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
Ditch	1,483	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Corps conducted a site visit on April 2, 2021. During the review a continuous OHWM and clear bed and bank was observed based on several physical characteristics such as a break in slope, a clear/natural line impressed on the bank, changes in soil characteristics, destruction of vegetation, and the presence of litter and debris. These findings would suggest sufficient seasonal flow, volume, and duration to be a jurisdictional water of the U.S. The

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.



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				ditch contributes surface water flow indirectly through Duffy Creek to an a(1) water in a typical year, Sassafra River. Sassafra River eventually outlets into the Chesapeake Bay, which is classified as a traditional navigable water (TNW). Based on review of historic aerials, the ditch appears to be constructed in a tributary and in an adjacent wetland. A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that this water meets the tributary definition and does contribute perennial flow to a downstream TNW in a typical year.
Perennial Stream	875	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Corps conducted a site visit on April 2, 2021. During the review a continuous OHWM and clear bed and bank was observed based on several physical characteristics such as a break in slope, a clear/natural line impressed on the bank, changes in soil characteristics, destruction of vegetation, and the presence of litter and debris. These findings would suggest sufficient seasonal flow, volume, and duration to be a jurisdictional water of the U.S. The perennial stream contributes surface water flow indirectly through Duffy Creek to an a(1) water in a typical year, Sassafra River. Sassafra River eventually outlets into the Chesapeake Bay, which is classified as a traditional navigable water (TNW). A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that this water meets the tributary definition and does contribute perennial flow to a downstream TNW in a typical year.

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
POW/Impoundment of Jurisdictional Waters	4.3	acre(s)	(a)(3) Lake/pond or impoundment of a jurisdictional water contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	The Corps conducted a site visit on April 2, 2021. During the review, a dam was observed along the a(2) perennial stream described above, creating a man-made impoundment of a jurisdictional water, likely constructed for agricultural use. The a(3) water contributes surface water flow to an a(1) water in a typical year, Sassafra River, indirectly through Duffy Creek, an (a)(2) water. A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that the impoundment is present during a typical year and is



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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
			jurisdictional because it contributes surface water indirectly to an (a)(1) water.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
PFO Wetland	0.75 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	During the field review all three wetland parameters were observed and confirmed within the PFO wetland using the 1987 Corps Wetlands Delineation Manual and Regional Supplement. The PFO wetland directly abuts the perennial stream channel (a)(2) water) described above. A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that the PFO wetland is present during a typical year and is jurisdictional because it abuts the a(2) water above.
PEM Wetland	0.1 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	During the field review all three wetland parameters were observed and confirmed within PEM wetland using the 1987 Corps Wetlands Delineation Manual and Regional Supplement. The PEM wetland directly abuts the perennial stream channel (a)(2) water) described above. A typical year assessment was conducted and is described in Section III.B. The weight of evidence approach supports the conclusion that the PEM wetland is present during a typical year and is jurisdictional because it abuts the a(2) water above.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.

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 Report, February 3, 2021](#)
This information **is** sufficient for purposes of this AJD.
Rationale: [N/A](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or 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.



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- Photographs: Other: Submitted with Wetland Report, February 3, 2021, and photographs taken by the Corps.
- Corps site visit(s) conducted on: April 2, 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: Wetland Report, February 3, 2021
- 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	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Google Earth Pro

B. Typical year assessment(s): A typical year assessment was conducted using the Antecedent Precipitation Tool (APT) and results indicated that conditions were within the normal range at the time of the site visit and delineation. See attached form. In addition, a thorough review of other data sources to include the USFWS NWI maps, USDA NRCS Soil Survey, and USGS topographic maps indicate the presence of a perennial stream channel, jurisdictional ditch, an impoundment of jurisdictional Waters and PFO/PEM wetlands during a typical year. Historic aeriels obtained through Google Earth also indicate the long-term presence of a perennial stream channel, jurisdictional ditch, an impoundment of jurisdictional Waters and PFO/PEM wetlands. This evidence supports the conclusion that all aquatic resources on the site exist in a typical year.

C. Additional comments to support AJD: N/A, please see rational is section II.C above.