



**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): 10/8/2020
 ORM Number: NWW-2019-00661
 Associated JDs: N/A
 Review Area Location¹: State/Territory: Idaho City: Sandpoint County/Parish/Borough: Bonner
 Center Coordinates of Review Area: Latitude 48.317238 Longitude -116.528834

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 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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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
McGhee Road Wetlands	Not Defined	acre(s)	(b)(1) Non-adjacent wetland.	<i>The wetland area within the 192 acre review area is not adjacent to an (a)(1)-(a)(3) water. See Section III. C. for additional comments.</i>

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: [AJD Request form and attached description/photographs.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

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

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

Corps site visit(s) conducted on: [June 30, 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: [Title\(s\) and/or date\(s\).](#)

USFWS NWI maps: [August 24, 2020 via online mapper](#)

USGS topographic maps: [1:24K ID-SANDPOINT](#)

Other data sources used to aid in this determination:

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

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

C. Additional comments to support AJD: *The 192 acre review area contains an undefined amount of wetlands. The parcel under review is separated from Lake Pend Oreille, an (a)(1) traditional navigable water, by railroad tracks and residential and commercial development. Water from the parcel generally drains in a southeasterly direction, towards the railroad tracks. A culvert under the railroad tracks provides an outlet for any sheetflow runoff from the parcel's wetlands, which then empties into a man-made storm water ditch with multiple piped sections that presumably empty into Lake Pend Oreille. Lake Pend Oreille is over 4,000 feet from the wetland area.*

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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Under the Navigable Waters Protection Rule, the term adjacent wetlands means wetlands that: (i) abut, meaning to touch at least at one point or side of, a water identified in paragraph (a)(1), (2), or (3); (ii) are inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) in a typical year; (iii) are physically separated from a water identified in paragraph (a)(1), (2), or (3) only by a natural berm, bank, dune, or similar natural feature; or (iv) are physically separated from a water identified in paragraph(a)(1), (2), or (3) only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetlands and the water identified in paragraph (a)(1), (2), or (3) in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature. Although the culvert under the railroad tracks allows for a direct hydrologic connection to the man-made storm water ditch, the ditch itself falls under the (b)(5) and (b)(10) exclusions and does not meet the definition of a tributary. The man-made storm water ditch is not naturally occurring and appears to have been constructed in uplands. As such, the wetland under review does not abut an (a)(1)-(a)(3) water; is not inundated by flooding from Lake Pend Oreille in a typical year; is not physically separated by a natural feature from Lake Pend Oreille; and is separated from Lake Pend Oreille by more than just an artificial structure.

The extent of wetlands on the parcel is immaterial in this particular case since adjacency to an (a)(1)-(a)(3) water cannot be established.