



**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): 8/18/2020
 ORM Number: CENAP-OP-R-2017-00270-86
 Associated JDs: CENAP-OP-R-2005-00304
 Review Area Location¹: State/Territory: Delaware City: New Castle County/Parish/Borough: New Castle
 Center Coordinates of Review Area: Latitude 39.679139 Longitude -75.605814

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
Stream 5B	261	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 5B is a perennial stream that flows directly to Nonesuch Creek which directly flows from the Christina River which would be considered an (a)(1) waterway.
Stream 1	1,672	linear feet	(a)(2) Perennial tributary contributes	Stream 1 flows directly from Pond 1 which contributes surface water flow indirectly to the Christina River an (a)(1) waterway.

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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Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
		surface water flow directly or indirectly to an (a)(1) water in a typical year.	
Stream 2	318	linear feet (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Stream 2 flows directly from Stream 1 an (a)(2) waterway which contributes surface water indirectly to the Christina River an (a)(1) waterway.

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
Pond 1	1.77	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.	Pond 1 flows directly from a UNT to Nonesuch Creek an (a)(3) water way which flows directly to the Christina River an (a)(1) waterway.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland A	2.52	acre(s) (a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland A is a wetland feature that abuts Stream 5B.
Wetland C	0.10	acre(s) (a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	Wetland C was once connected to Wetland A, however, Wetland C has been separated through an artificial structure and still has a direct surface water connection.
Wetland G	0.08	acre(s) (a)(4) Wetland separated from	Wetland G is separated by a culvert from UNT to Nonesuch Creek which is an (a)(3) waterway.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	
Wetland E	0.77	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland E abuts Stream 1 an (a)(2) waterway.
Wetland D	0.04	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland D abuts Stream 1 an (a)(2) waterway.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stream 5A	185	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Stream 5A is an ephemeral stream that flows directly from Stream 5B.
Wetland B	0.02	acre(s)	(b)(1) Non-adjacent wetland.	Wetland B is an isolated wetland with no surface water connection to any nearby wetlands or water features.
Wetland H	0.14	acre(s)	(b)(1) Non-adjacent wetland.	Wetland H is an isolated wetland that had a natural stream connection to Pond 1 at one point but the connection is no longer present due to maintenance and mowing of the property.
Wetland I	0.08	acre(s)	(b)(1) Non-adjacent wetland.	Wetland I is an isolated wetland with no surface water connection to any nearby wetlands or water features.
Wetland J	0.08	acre(s)	(b)(1) Non-adjacent wetland.	Wetland J is an isolated wetland with no surface water connection to any nearby wetlands or water features.
Wetland K	0.08	acre(s)	(b)(1) Non-adjacent wetland.	Wetland K is an isolated wetland with no surface water connection to any nearby wetland or water features.

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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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland F	1.00 acre(s)	(b)(1) Non-adjacent wetland.	Wetland F is an isolated wetland that has a indirect surface water connection to Nonesuch Creek, however since Wetland F separated by multiple artificial barrier it is no longer jurisdictional.

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: [Plans prepared by McFarland Johnson, dated JULY 2020, Entitled: “Wetlands and Surface Waters Delineation OVERALL PLAN” Figures WDP-1 through WDP-12.](#)

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: [Other: “Wilmington/New Castle Airport – Master Plan Update Wetlands and Surface Waters Delineation Report New Castle, New Castle County, Delaware”, pages 1 through 8 of 8.](#)

Corps site visit(s) conducted on: [11/5/2018 and 12/4/2018](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [CENAP-OP-R-2005-00304-46 – March 17, 2005](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [“Wilmington/New castle Airport, New Castle County, Delaware” July 2016, Figure 5](#)

USFWS NWI maps: [“Wilmington/New Castle Airport, New Castle County, Delaware” July 2016, Figure 3](#)

USGS topographic maps: [“Wilmington/New Castle Airport, New Castle County, Delaware” July 2016, Figure 1](#)

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.
Other USACE data (specify)	CENAP-OP-R-2017-00270-75 Photos taken by Todd Schaible. Photos taken on 29 November 2018 Pages 1 through 6 of 6.
State/Local wetland inventory maps	“State of Delaware Wetlands, New Castle County, Delaware” Photo # 31-003, Filename – DNR401, Date 3-23-88, Scale 1:3600
FEMA/FIRM maps	“Wilmington/New Castle Airport, New Castle County, Delaware” July 2016, Figure 4

B. Typical year assessment(s): [The Corps Antecedent Precipitation Tool was used to determine that during 4 December 2018 site visit totals were within a Wetter than Normal Range. The output from running the tool is attached.](#)



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C. Additional comments to support AJD: [N/A or provide additional discussion as appropriate.](#)