



**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): 8/10/2020
 ORM Number: POA-2020-00365
 Associated JDs: POA-2020-00355
 Review Area Location¹: State/Territory: AK City: Anchor Point County/Parish/Borough: Kenai Peninsula
 Center Coordinates of Review Area: Latitude 59.7686 Longitude -151.8547

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: NA
- 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
Danver Street Pond	0.54 acre(s)	(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.	The pond is a former material site that was constructed wholly in uplands. See III(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: [NA](#)
This information [Select](#). sufficient for purposes of this AJD.
Rationale: [NA](#)
- Data sheets prepared by the Corps: [NA](#)
- Photographs: [Aerial and Other: Google Earth: 26 Aug 1996; 12 May 2006; 21 Aug 2015; and 10 May 2017. Site visit photos from 15 May 2020](#)
- Corps site visit(s) conducted on: [15 May 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: [Western Kenai Peninsula Area, Alaska. Version 19. 2 June 2020.](#)
- 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.

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**

Data Source (select)	Name and/or date and other relevant information
State/Local/Tribal Sources	N/A. Wetland Mapping and Classification of the Kenai Lowland, Alaska. 21 March 2008. Gracz, Mike, Noyes, K., North, P., and Tande, G.; cookinletwetlands.info
Other Sources	N/A.

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

C. Additional comments to support AJD: This determination applies to both POA file numbers listed in Section I.

Water flows from the material extraction site (site) toward a mapped wetland on an adjacent property. During the site visit, the ground downhill of the site was too frozen to inspect the soils. The vegetation (predominately *Calimagrostis canadensis* (FAC)) was beginning to grow. Multiple dead spruce and drainage patterns were present. Standing water was also present. The surface water appeared to originate from near the northeast corner of the site. Sediment deposits down gradient of the site indicated water flows from the site to the mapped wetland during high flow events. Excepting the area of dead trees and drainage patterns, the northern bank of the site did not appear to meet wetland criteria as evidenced by the remnants of last year's Cow parsnip (*Heracleum maximum* (FACU)) and healthy white spruce (*Picea glauca* (FACU)) growing in the area. Additionally, the review area is mapped as having a non-hydric soil (Mutnala silt loam). Google Earth photos from 1996 and 2006 show an active material extraction site devoid of standing water. The spruce tree margin between the site and the mapped wetland was intact. The 2015 photo shows standing water and a reduction in living trees near the northeast corner of the site. An area of dead trees at this location was noticed during the May 2020 site visit. Local wetland mapping does not indicate either the site or the area of dead trees is a wetland. This potential wetland area developed after the site became a water filled depression and does not make the site jurisdictional.

The soil type, adjacent vegetation, aerial imagery, and local wetland mapping all indicate the site was wholly upland prior to material extraction activities and thus meets the (b)(9) exclusion of the NWPR.