



**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): 8/20/2020

ORM Number: POA-2020-00390

Associated JDs: NA

Review Area Location¹: State/Territory: AK City: Ninilchik County/Parish/Borough: Kenai Peninsula

Center Coordinates of Review Area: Latitude 60.0408 Longitude -151.6747

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: Not all 3 parameters of a wetland are present. See Section III (C) below.
- 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 |
| N/A. | 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. | 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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| 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. |

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: [Title\(s\) and date\(s\)](#)
This information [Select.](#) sufficient for purposes of this AJD.
Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: Google Earth Street View September 2011; Digital Globe 9 May 2017 & 5 August 2020.](#)
- Corps site visit(s) conducted on: [Date\(s\).](#)
- 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: [Access 20 August 2020](#)
- 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. 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): [NA](#)

C. Additional comments to support AJD: [Both the NWI and the local wetland mapping efforts indicate the project site is an upland. The town of Ninilchik is situated on a ridge between the Ninilchik River and Deep](#)

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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Creek. Few wetlands are located between these streams as precipitation and snowmelt rapidly run off of the upland ridge.

The majority of the proposed project would be constructed on an existing gravel pad. The 5 August 2020 aerial imagery shows the existing pad has been expanded east of the existing building into an area that was previously vegetated. As seen in the Google Earth Street View imagery, the dominant vegetation in this expansion is bluejoint reedgrass (*Calamagrostis canadensis*, FAC) and birch (*Betula neoalaskana* or *B. kenaica*, both FACU). This indicates the site is not dominated by hydrophytic vegetation and would not meet the wetland vegetation parameter. Additionally, there are no indicators of hydrology evident in the images of the area.