



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): December 23, 2020  
ORM Number: POA-2011-00073  
Associated JDs: POA-2011-00073, various Rapanos based JDs from 2011 onward.  
Review Area Location<sup>1</sup>: The project site is located at approximately Latitude 65.069790° N., Longitude -147.175746° W., Latitude 65.070041° N., Longitude -147.195806° W., and Latitude 65.072065° N., Longitude -147.237904° W.; USGS Quad map Livengood A-1.  
State/Territory: AK City: Chatanika County/Parish/Borough: Fairbanks North Star  
Borough Center Coordinates of Review Area: Latitude 65.07256° N. Longitude -147.21203° W.

**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)<sup>2</sup>**

§ 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)<sup>3</sup>

(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
<b>Intermittent unnamed Creeks (2)</b>	Both are approximately 2 ft wide and 50 feet long in the project area	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Two Intermittent creeks flowing through man-made conveyance (settling ponds and surface flow) to Fairbanks Creek
<b>Alder Creek</b>	Approximately 2 to 6 ft wide, 2000 ft within the project area.	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial stream flowing into Fairbanks Creek

<sup>1</sup> Map(s)/Figure(s) are attached to the AJD provided to the requestor.

<sup>2</sup> 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.

<sup>3</sup> 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 independent 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.

<sup>4</sup> 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.

<sup>5</sup> 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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<b>Ginger Creek</b>	Approximately 2 ft wide and 1,100 feet long in the project area	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial stream flowing into Fairbanks Creek, it runs through recent mining area and its pathway becomes indistinct before regaining its channel several hundred feet above Fairbanks Ck.
<b>Crane Creek</b>	Approximately 2 to 6 ft wide, and 1,000 feet long in the project area	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial stream flowing into Fairbanks Creek
<b>Fairbanks Creek</b>	Approximately 10 ft wide, 0.5 to 2 ft deep. It runs the entire 13,000 ft. east-west length of the project area.	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial stream flowing into Little Chena River

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
North-facing Hillside-south of Fairbanks Creek	Approximately 15 acres is in the project area	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Abutting Fairbanks creek via two intermittent channels (see above). The project area includes the toeslopes of this large slope wetland bordering Fairbanks Creek's south flank.

**D. Excluded Waters or Features**

Excluded waters ((b)(1) – (b)(12))<sup>4</sup>:

Exclusion Name	Exclusion Size	Exclusion <sup>5</sup>	Rationale for Exclusion Determination
Settling ponds and drainage in current use	Variable per year	(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.	These are limited to areas which were covered under the valley walls prior to placer mining, but are now part of an expanded floodplain of Fairbanks Creek. They are characterized by settling ponds and drainages which become jurisdictional as they enter the historic floodplain.

**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: *N/A*.
- \_\_\_ Rationale: *N/A*
- \_\_\_ Data sheets prepared by the Corps: *N/A*
- x** Photographs: *DOQ\_2007\_center1.sid (FNSB 2007), Google Earth 2018*
- x** Corps Site visit(s) conducted on: *August 6<sup>th</sup>, 2020.*

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- Previous Jurisdictional Determinations (AJDs or PJDs): *POA-2011-00073 ( )*.
- Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- USDA NRCS Soil Survey: *Soil Survey of the Greater Fairbanks Area*
- USFWS NWI maps: *Chena River HUC8 (USFWS, 2014)*
- USGS topographic maps: *Llvengood A-1*

**Other data sources used to aid in this determination:**

Data Source (select)	Name and/or date and other relevant information
USGS Sources	National Hydrography Database, accessed online 12-2020.
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:** Applicant is proposing new placer mine sites adjacent to Fairbanks Creek. The majority of the area has been historically mined, however one of the three locations (Latitude 65.069790° N., Longitude -147.175746° W ) related to this project is as yet unmined – it is an extension of current placer operation on a south-facing valley wall which is forty feet higher than the floodplain and is a upland. The second location (Latitude 65.070041° N., Longitude -147.195806° W) is near the confluence of Fairbanks Creek and the outlet of current mining operation water. This location, while in the floodplain of Fairbanks Creek, is not a wetland. It is above both the ordinary high water mark (OHWM) of Fairbanks Creek and the OHWM of the outflow path of the mine’s settling ponds, has highly impacted, mesic to dry vegetation, and gravelly, well drained soils. It is considered an upland. The third location is on the north side of Fairbanks Creek near the mouth of Crane Creek. This is on the toe slope of the north side of the valley where, unless directly in the channel or immediate riparian corridor of streams or waterbodies, the hillside is considered upland due to the lack of hydrophytic vegetation and lack of hydrology indicators. This third location is considered an upland.

**Though there are clearly defined jurisdictional tributaries (see section C. (a)(2)) and wetlands exhibiting connectivity to CWA 404 waters (see section C. (a)(4)) in the overall project area (see map), the current project locations are considered ‘dry land’ uplands not exhibiting all three parameters necessary to categorize as adjacent (a)(4) wetlands. The Corps has no jurisdiction over these areas and no permit is required for activities taking place there.**

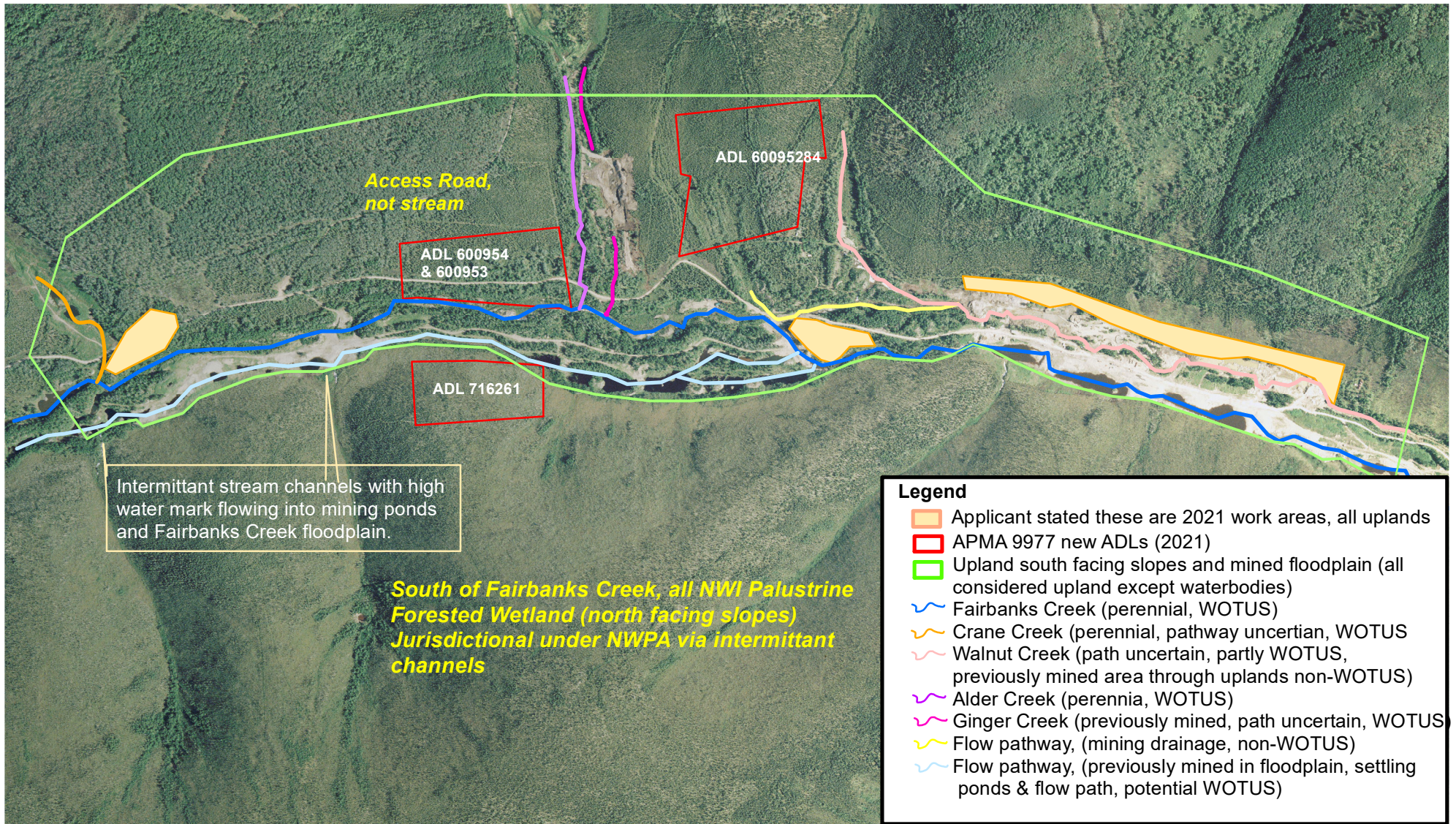
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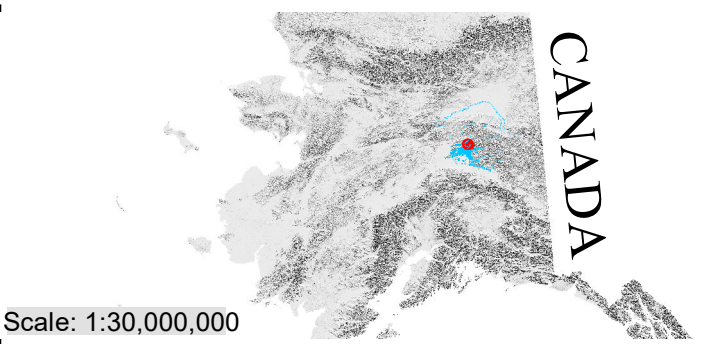
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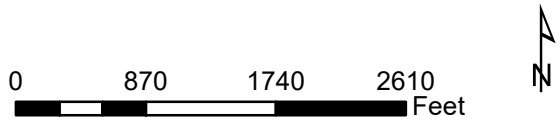


**Legend**

- Applicant stated these are 2021 work areas, all uplands
- APMA 9977 new ADLs (2021)
- Upland south facing slopes and mined floodplain (all considered upland except waterbodies)
- Fairbanks Creek (perennial, WOTUS)
- Crane Creek (perennial, pathway uncertain, WOTUS)
- Walnut Creek (path uncertain, partly WOTUS, previously mined area through uplands non-WOTUS)
- Alder Creek (perennial, WOTUS)
- Ginger Creek (previously mined, path uncertain, WOTUS)
- Flow pathway, (mining drainage, non-WOTUS)
- Flow pathway, (previously mined in floodplain, settling ponds & flow path, potential WOTUS)



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 Contact: amy.c.tippery@usace.army.mil  
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 (accsd online 2019/04),  
 Scale: 1:15,400 Date:12/23/2020



**POA-2011-00073,  
 APMA 9977 Fairbanks Gold  
 Mining Inc. Uplands, Wetlands  
 and Waterbodies, 2020**