



**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): *2/26/2021*
 ORM Number: *POA-2021-00099*
 Associated JDs: *N/A*
 Review Area Location¹: State/Territory: *AK* City: *Shaktolik* County/Parish/Borough: *Nome Census Area*
 Center Coordinates of Review Area: Latitude *64.35498°* Longitude *-161.19714°*

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: *The review area is located on the highest elevations of a narrow sand and gravel spit created from sediment transported by tidal and river currents. Aerial imagery spanning several years shows the review area contains sparse, herbaceous vegetative cover and no open waters. Data from the UA Center for Conservation Science’s Landcover and Wetland Mapper indicates the review area contains only uplands. There is no NWI coverage over the review area. The review area is also within a few blocks of other lots previously reviewed by the Corps and determined to contain only uplands. These previously reviewed lots are similarly situated to the review area (elevation, topography, vegetation, aspect). A 2017 delineation of lands adjacent to a portion of the review area show the general soil profile in the area consists of a thin (<8”) organic layer over layers of well drained sand and gravel (non-hydric) with no evidence of wetland hydrology. Additionally, the vegetation is generally comprised of mesic grassland species, such as dunegrass (Leymus mollis, FAC), fireweed (Chamaenarion angustifolium, FACU), bluegrass (Poa pratensis, FACU), sea-coast angelica (Angelica lucida, FACU), and sandwort (Moehringia lateriflora, FACU).*
- 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 |
|-------------|-------------|---------------|----------------------------------|
| <i>N/A.</i> | <i>N/A.</i> | <i>N/A.</i> | <i>N/A.</i> |

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 |
| <i>N/A.</i> | <i>N/A.</i> | <i>N/A.</i> | <i>N/A.</i> |

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 | |
| 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. |

| | | | | |
|------------------------------------|-------------|-----------------|------------------------------------|------|
| 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. | 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. | 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: [Request for a JD form submitted, with a request for a “No Permit Required” letter to construct/develop.](#)

This information is not sufficient for purposes of this AJD.

Rationale: [Information provided by the agent was limited to the only the location of the lot, general statement of proposal to “construct/develop” the lots, and copies of two past letters from the Corps to BSRHA for other lots in Shaktoolik. No delineation was provided, and this information was too basic to adequately determine the presence/absence or jurisdiction of waters of the United States. Additional information was necessary.](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Aerial and Other: See Section III.C. below.](#)
- Corps site visit(s) conducted on: [2004 \(Don Rice\) – for another project; personal communication with AI Skinner noted in project file \(POA-2005-00663\)](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [nearby POA-2005-00663, POA-2006-00885, POA-2006-00885-8, POA-2017-00530](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [No coverage.](#)
- USFWS NWI maps: [No coverage, but used for extrapolation from nearest covered similar landform. See Section III.C. below.](#)
- USGS topographic maps: [USGS 15-minute Topographic map: Norton Bay B-5](#)

Other data sources used to aid in this determination:

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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| 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:

- a) [Map/plat provided by the agent showing review area boundaries overlaying aerial imagery \(taken June 5, 2020\) from Google Earth](#)
- b) [Aerial imagery \(dated September 6th and 11th, 2020; October 18, 2020; and a “mosaic” image using imagery between May 20, 2010 and June 24, 2015\) obtained from Digital Globe – show OHWM, HTL, and ponds and the indication of likely wetland areas on the low-lying edges near the river – all outside the review area](#)
- c) [DCRA community profile maps \(Shaktoolik 2004\) showing the entire community is situated along one road on the “cap” or highest elevation of the narrow spit between Norton Sound and the Tagoomenik River](#)
- d) [No FEMA flood plain maps are available for this area, but community profile map \(2004\) shows 2’ elevation contours and depict the review area well above the “Flood Hazard” areas; USACE produced a coastal flood analysis specific to Shaktoolik in 2011, which stated the entire community would be classified in Zone V](#)
- d) [Ground photographs from Alaska’s DNR Geological and Geophysical Surveys, taken during landform profile surveys of the Shaktoolik spit in 2011 – showing sparse to dense mid- to low-growing grasslands typical of upland beach areas and banks/trail cuts show thin \(<8” organic soil upper layer over sand\)](#)
- e) [Other JD’s/permits in the vicinity \(POA-2017-00530, POA-2006-885, POA-2005-00663\) – all determined by the Corps to be entirely uplands](#)
- f) [MFR prepared for this JD Request in the administrative file](#)