



US Army Corps  
of Engineers  
Alaska District

# Special Public Notice

Regulatory Division (1145)  
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## SPECIAL PUBLIC NOTICE (SPN) 2020-00399

### Corps of Engineers Regulatory Program Consultant-Supplied Jurisdictional Determination Reports

The Alaska District Regulatory Division, U.S. Army Corps of Engineers (Corps) receives approximately 695 requests annually for jurisdictional determinations and/or Department of the Army permits for the placement of fill and/or structures/work in waters of the United States (U.S.), including wetlands. The initial procedure for managing these requests is to identify and locate which portions of a proposed project area would be regulated by the Corps under Section 404 of the Clean Water Act and/or Section 10 of the Rivers and Harbors Act. This is called a Jurisdictional Determination (JD).

The Corps determines jurisdiction by determining and documenting the presence or absence of waters of the U.S., including wetlands<sup>1</sup> on a subject parcel or parcels. Jurisdiction is determined by identifying the boundaries of jurisdictional waters and wetlands, and identifying their hydrologic surface connection(s) to downstream traditional navigable waters (TNWs), connections to interstate commerce, and/or wetlands' adjacency to other waters of the U.S.

The Corps performs JDs as a free service available to the public upon request, generally excluding those JD requests involving areas greater than 5 acres in size and/or requiring considerable labor hours. However, due to the large size of Alaska, limited staff and resources, and a compressed field season, the response time can be several months or longer. To expedite this process, the Corps encourages applicants to use consultants to submit Jurisdictional Determination Reports (JDRs), especially for large and/or complex areas. JDRs are then submitted to the Corps for review and verification, and then become the Corps'

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<sup>1</sup> This includes delineating the boundaries of wetlands determined to be under Corps jurisdiction via a multi-parameter approach defined in the 1987 "Corps of Engineers Wetlands Delineation Manual" and the "Regional Supplement to the Corps of Engineers Wetland Delineation Manual, Alaska Region." The Corps' determination that an area is a wetland requires positive evidence of hydrophytic vegetation, hydric soils, and wetland hydrology.

approved JD, completing this process. A list of consultants<sup>2</sup> is available on our webpage at: <https://www.poa.usace.army.mil/Missions/Regulatory/Regulatory-Resource-Information/>.

To assist consultants, the Corps provides the following lists, showing the minimum information to include when submitting JDRs, as well as a list of additional information that can be provided to further expedite the JD process. The Corps will determine on a case-by-case basis whether or not the supplied information is adequate. Submittal of incomplete information may result in time delays and/or requests for additional information.

Please note this information replaces Special Public Notice (SPN) 2010-00045, *Consultant-Supplied Jurisdictional Determination Reports*.

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<sup>2</sup> Under "Overviews/General Information," then "External Resources," click on "List of Consultants." A hard copy can be provided upon request. This list contains only consultants who requested listing and may not be complete. The Corps of Engineers neither endorses nor accepts responsibility for work performed by any consultant on this list.

# Jurisdictional Determination Report (JDR) Minimum Requirements: Mapping and Delineation Only

(This list is intended for consultants with current training and experience performing wetland delineations.)

## SUPPORTING INFORMATION

### 1. Cover Letter

- Names (including a point of contact if the applicant is a corporation or other entity), complete mailing addresses and phone numbers for the following:
  - Current Property Owner
  - Applicant (Project Sponsor)
  - Wetland Delineator (Consultant)
- A description of the purpose of the request (e.g., permit application, enforcement action, jurisdictional determination request); a general description of the proposed project; location of the site (latitude and longitude of the center of the parcel in decimal degrees, NAD83 datum); directions to the site; the size (acres) of the parcel<sup>3</sup>; and the size of the limits of the project area<sup>4</sup> or review area (if smaller than the parcel).
- Written landowner permission to the Corps of Engineers (Corps) for access of the parcel if access is required in the review the JDR. This should be signed by the current property owner and any associated land users (e.g., renter).

### 2. Narrative

- Dates of field work and personnel involved.
- Methods used (simply cite the appropriate sections of the “Regional Supplement to the Corps of Engineers Wetland Delineation Manual, Alaska Region” (Regional Supplement) and the 1987 “Corps of Engineers Wetlands Delineation Manual” (Corps Manual), but describe any deviations from standard methods.).
- Verification/certification statement that all delineation of wetlands has been conducted in accordance with the Regional Supplement and Corps Manual. These manuals can be found on our webpage at:  
<https://www.poa.usace.army.mil/Missions/Regulatory/Regulatory-Resource-Information/>.
- Supporting materials used (not an exhaustive list):
  - National List of Plant Species That Occur in Wetlands: Alaska (Region A)
  - Soil survey report
  - Hydric soil list
  - Aerial photography
  - USGS topographic map and/or local topography mapping
  - National Wetland Inventory (NWI) map and/or local wetland mapping
  - National Technical Committee on Hydric Soils (NTCHS) field indicators
  - Color photographs of all representative areas of the parcel (taken during the growing season), including any connections between tributaries or between tributaries and wetlands.

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<sup>3</sup> A parcel is a distinct, continuous portion or tract of land, such as a defined subdivision.

<sup>4</sup> A project or review area is the limits of all lands expected to be disturbed for a single and complete project.

- Important findings:
  - Types and locations of any wetlands present.
  - Rationale for wetland boundary locations based on vegetation, soils, and hydrologic conditions.
  - Description of any current and/or historic land uses on the parcel.
  - Topography and/or geomorphology.
  - Description of potential pollutants or other environmental hazards.
  - Description of species habitat.
- Summary of conclusions:
  - Summary of what was found on the parcel, including any contrasts between what is suggested by desktop information and what was found on-site.
  - Description of the wetlands and vegetative cover types, including justification for the wetland boundaries, and accompanied by complete and accurate Wetland Delineation Forms (Appendix D of the Regional Supplement) for each cover type. Data points should be documented on either side of the boundary line for each wetland type and/or separate wetland area. Additional data forms may be necessary depending on various factors including the size and shape of the wetlands on the parcel, difficulty in the identifying a precise wetlands/uplands boundary, and the width of any transition zones.

### 3. **Location Map** (showing vicinity, parcel boundaries, and project or review area)

- Sized on 8 ½ by 11-inch paper.
- Use standard mapping conventions (such as north arrow, location map, etc.), and other symbology which facilitate the correlation of map locations with ground features (e.g., buildings, fence lines, roads, right-of-ways, trees, streams, topographic features, etc.).
- Title block providing the following information: project name, project proponent, latitude and longitude in decimal degrees (datum NAD83).
- Other pertinent maps.
- For those projects crossing numerous potentially jurisdictional waters of the U.S., include an excel spreadsheet, which can be found on our web page at: <https://www.poa.usace.army.mil/Missions/Regulatory/Special-Public-Notices/>, under this SPN.

### 4. **Delineation Map** (showing vicinity, parcel boundaries, project/review area, and hydrologic surface connections outside of the review area, if necessary)

- **Map Format:** Sized on 8 ½ by 11-inch paper
  - Use standard mapping conventions (such as north arrow, vicinity map, etc.) and other symbols which facilitate the correlation of map locations with ground features (e.g., buildings, fence lines, roads, right-of-ways, trees, streams, topographic features, etc.).
  - Title block providing the following information: project name, project proponent, and latitude and longitude in decimal degrees (datum NAD83).
- **Map Scale:** Generally one inch to 100 or 200 feet for best readability, maximum one inch to 400 feet. Maps using a photographic base must be corrected for distortions, and any overlays must be at the same scale.

- **Map Coordinates:** Coordinates should be represented in the decimal degree format, out to four decimal places, ex. XXX.XXXX° N., XXX.XXXX° W. (NAD83), to be compatible with our database. Generally, a center point coordinate is used to represent each potentially jurisdictional water of the United States (U.S.). Other features which may include coordinate information may be locations and identification of data points, and surveyed or GPS established flags, stakes, or wetland boundaries.
- **The map should include:**
  - The boundary of the entire parcel, including the project/review area if smaller, and boundaries between wetlands/uplands, ordinary high water mark of any waterways, etc., on the entire parcel.
  - A depiction of all waters of the U.S. on the entire parcel, including but not limited to, territorial seas, tributaries, lakes and ponds, and impoundments of jurisdictional waters, and wetlands, as described in 33 CFR 328.3. Differentiate between different Cowardin or HGM types of wetlands; this may be important in making compensatory mitigation determinations.
  - A depiction of all water features which meet wetlands criteria, open waterbodies, waterways, or features which may convey water (such as a culverts, ditches, swales, or natural drainages), but which may be non-jurisdictional for one or more reasons, as listed in 33 CFR 328.3(b)(1) through (12). Some situations may require identifying and locating stream order and stream reach.
  - Depictions of water features (as described in the previous two bullets) using appropriate hatching, shading, or outlines. Jurisdictional water features should use different representation than non-jurisdictional water features.
  - Location and labels for each transect, upland/wetland data points and photo points, etc., including latitude and longitude for each data point.
- **Supporting map information that may best be shown in a table includes:**
  - A table displaying the respective sizes (in acres) of each water and the cumulative acreage of each type of water.
  - Watershed size, drainage area size (for any relevant stream reach), average annual rainfall/snowfall.
  - Tables showing locations and sizes of culverts.
  - Summary of tributaries on the parcel, and their area and straight distances, in miles, from the nearest traditionally navigable water.
  - Description of tributary substrate composition (e.g., silts, sands, gravel, etc.).

**5. Verification:** The delineation elements should be clearly displayed on an aerial photograph and mapping, with measures taken to ensure they can be identified in the field by a Corps representative, as necessary. Coordination with the Corps is recommended prior to field work, to clarify the extent of verification measures necessary for your project, as well as necessary accuracy requirements when using GPS equipment. GPS metadata should be included with the JDR to reflect GPS field accuracy.

Unless a written exception is obtained from the Corps, flags or stakes should be individually numbered and surveyed by traditional methods or by GPS equipment. The survey data must specify the geographic coordinate system used in referencing the data, including projections and datum (e.g., Latitude-Longitude: NAD83).

Data should be provided in a digital geographic information system (GIS) format to expedite review, with ESRI Shapefiles being the preferred format. Flagging or staking should include the following, with identifying symbols to denote:

- Boundary lines of the parcel, AND of the project/review area, if smaller
- Wetland boundaries
- All tributaries
- All other waters, including potentially non-jurisdictional waters

**Jurisdictional Determination Report (JDR<sup>5</sup>)**  
**Additional Information Not Required, but may be Included to Further Expedite the**  
**Corps' Official Jurisdictional Determination Process**

- **Note: There is a lot of associated legal terminology involved with this information, further defined in the footnotes below. This list is intended for consultants with current knowledge and experience in the meaning of this terminology. Additional guidance is available on the Corps Headquarters' webpage: <https://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/>.**
- On the JDR mapping, identify the waters as: traditionally navigable waters (TNWs); tributaries, lakes and ponds, and impoundments of jurisdictional waters, and/or adjacent wetlands.
  - **TNWs** are defined as: the territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. TNWs are synonymous to the definition of "waters of the United States" found at 33 CFR 328.3(a)(1). TNWs include the following waters:
    - Waterbodies that are navigable-in-fact under federal law;
    - Waters currently being used for commercial navigation, including commercial waterborne recreation (e.g., boat rentals, guided fishing trips, water ski tournaments, etc.);
    - Waters that have historically been used for commercial navigation, including commercial water-borne recreation;
    - Waters that are susceptible to being used in the future for commercial navigation, including commercial water-borne recreation. Susceptibility for future use may be determined by examining a number of factors, including the physical characteristics and capacity of the water (e.g., size, depth, and flow velocity, etc.) to be used in commercial navigation, including commercial recreational navigation, and the likelihood of future commercial navigation or commercial water-borne recreation. Evidence of future commercial navigation use, including commercial water-borne recreation (e.g., development plans, plans for water dependent events, etc.), must be clearly documented. Susceptibility to future commercial navigation, including commercial water-borne recreation, will not be supported when the evidence is insubstantial or speculative. Use of average flow statistics may not accurately represent streams with "flashy" flow characteristics. In such circumstances, the Corps encourages use of the Antecedent Precipitation Tool (APT), which is available on the Corps Headquarters' webpage at: <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/techbio/>.
  - **Tributaries** are defined as: a river, stream, or similar naturally occurring surface water channel that contributes to surface water flow to a TNW in a typical year either directly or through one or more jurisdictional water.

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<sup>5</sup> A JDR is a report documenting the potential extent of jurisdictional waterbodies and/or wetlands within the boundaries of a parcel of land, including the project/review area. The Corps must independently review and verify the information in all JDRs in making an official jurisdictional determination.

Tributaries must be perennial (surface water flows continuously year-round) or intermittent (surface water flows continuously during certain times of the year and more than in direct response to precipitation) in a typical year. Ephemeral streams (surface water flowing or pooling only in direct response to precipitation) are not considered tributaries.

- Lakes and ponds, and impoundments of jurisdictional waters are defined as: standing bodies of open water that contribute surface water flow to a TNW in a typical year either directly or through one or more jurisdictional waters. Such waters are also jurisdictional if they contribute surface water flow to a downstream jurisdictional water in a typical year through a channelized non-jurisdictional surface water feature (such as a culvert, dike, spillway, etc.), or are inundated by flooding from a TNW, tributary, or other lake, pond, or impoundment of jurisdictional waters.
- Adjacent wetlands are defined as: (1) wetlands that abut (touch) at least one point or side of a TNW, tributary, lake, pond, or impoundment of jurisdictional waters; (2) are inundated by flooding from a TNW, tributary, lake, pond, or impoundment of jurisdictional waters in a typical year; (3) are physically separated from a TNW, tributary, lake, pond, or impoundment of jurisdictional waters by one natural berm, bank, dune, or similar natural feature; and/or (4) are physically separated from a TNW, tributary, lake, pond, or impoundment of jurisdictional waters only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetland and the jurisdictional water in a typical year. Adjacent wetlands are adjacent in their entirety, even when a road or similar artificial structure divides the wetland, so long as the structure provides a direct hydrologic surface connection through the structure (such as a culvert) in a typical year.
- Provide a brief discussion of why the tributaries (streams) on the parcel are TNWs, perennial, or intermittent. Information that may be helpful includes: Antecedent Precipitation Tool (APT) output for the review area, hydrographic studies or calculations, general flow patterns, volume and frequencies, historic information documenting use, etc.
- Description of tributary and non-tributary (if applicable) connections to a TNW for each aquatic resource on the parcel, including a discussion of wetlands and/or other connections (e.g., Wetland A connects to Wetland B via a culvert under the road. Wetland B has an intermittent drainage to a lake whose outlet eventually flows into a TNW). Include a description of general flow patterns, volume and frequency. Certain non-aquatic geographic features (e.g., non-tributaries such as swales, ditches, and pipes) may contribute to a hydrologic surface connection where they connect one water of the U.S. to another, replace or relocate a water of the U.S., or provide relatively permanent flow to a water of the U.S. Include information that describes whether the non-tributary allows for a hydrologic surface connection at least once in a typical year. Conversely, if aquatic resources do not connect to a TNW, describe the factors impeding connection (i.e., lack of culverts or other drainages through man-made or natural barriers; lack of documentable flow through a non-tributary in a typical year; etc.).
- Description of whether each wetland on the parcel is an adjacent wetland to a TNW, tributary, lake, pond, and/or impoundment of jurisdictional waters (e.g., Wetland A directly abuts an unnamed tributary to Canyon Creek), and a brief discussion of the



justification for this determinations. Conversely, if a wetland on the parcel or in the review area is not an adjacent wetland, describe the factors impeding adjacency.

- Describe any observed and/or documented examples of an interstate or foreign commerce connection. Examples include, but are not limited to:
  - Recreational or other use by interstate or foreign travelers.
  - Sale of fish or shellfish in interstate or foreign commerce.
  - Use by industries, including agriculture, operating in interstate or foreign commerce.
- Finally, if you believe the Corps should not take jurisdiction over an area from a legal perspective, please include the justification in the report.

Any questions or requests for additional information should be directed to:

[regpagemaster@usace.army.mil](mailto:regpagemaster@usace.army.mil), (907) 753-2712, toll-free from within Alaska at (800) 478-2712

District Commander  
U.S. Army, Corps of Engineers