



**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): 10/29/2020

ORM Number: POA-2003-01422

Associated JDs: POA-2003-01422 (AJD dated September 29, 2013) & POA-2013-00257 (AJD dated August 13, 2020)

Review Area Location¹: State/Territory: AK City: Fairbanks County/Parish/Borough: Fairbanks North

StarCenter Coordinates of Review Area: Latitude 64.796 Longitude

-147.497 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)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
Tin Cup wetland	355	acre(s)	(b)(1) Non-adjacent wetland.	It has been concluded that there is no surface connection between these wetlands and the nearby jurisdictional a(2) water (Channel B).

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: TPECI preliminary wetland delineation (dated 2013)

This information is sufficient for purposes of this
AJD. Rationale: N/A

- ☒ Data sheets prepared by the Corps: USACE data forms (dated May 30, 2013)
- ☒ Photographs: Aerial: Google Earth (dated
- ☒ Corps site visit(s) conducted on: May 30, 2013
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): POA-2003-01422 (AJD dated September 29, 2013) & POA-2013-00257 (AJD dated August 13, 2020)
- ☐ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☒ USDA NRCS Soil Survey: Greater Fairbanks Area (dated June 1, 2020)
- ☒ USFWS NWI maps: USFWS (accsd October 15, 2020)
- ☒ USGS topographic maps: Fairbanks D-1 SW (accsd October 15, 2020)

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.
Other Sources	N/A.

B. Typical year assessment(s): There was no typical year assessment for this property as there is no antecedent Precipitation Tool for this area. However, this has been an unusually wet year, with ground water and channel water levels being some of the highest in the past 100 years of historical data. Therefore, studies should show wetter than average conditions. Even with these wet conditions, a study for POA-2013-00257 (a neighboring parcel with connected wetlands) has indicated that there are no contiguous wetland connections with the nearby a(2) water (Channel B).

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**

C. Additional comments to support AJD: Based on a review of the information available to us, we have determined that the subject parcel contains wetlands which are not waters of the U.S. under our regulatory jurisdiction. The wetlands on the subject property do not have a surface hydrologic connection to an a(1) water, and are therefore considered exclusion (b)(1) non-adjacent wetlands, which are not a water of the U.S.

In 2013 the parcel was described as having wetlands that directly abutted an RPW under the Rapanos Decision (2007) and the Corps took jurisdiction in 2013 based on this abutment in addition to a significant nexus with the Chena River, a TNW. Due to negation of the Significant Nexus Rule under the Navigable waters Protection Rule in 2020, and site visits to the neighboring property that previously held a direct abutment to Channel B, an a(2) water, it has been determined that a surface connection no longer exists. The project manager in charge of the recent site visit to the prior abutment point (under POA-2013-00257) indicated the following in their notes:

“A site visit was conducted in July, 2020 to ground-truth the prior wetland report and to ascertain the connectivity of the PSS wetland which covers the majority of the parcel in question. It was found by investigation of the southern 1/3rd of the property that an east-west berm borders the entire east west trail along the southern property boundary. It was likely formed from overburden placement during the construction of the existing trail. It blocks all surface flow to the south with a slight micro-topographical rise (not more than 24 inches at any location), even across an apparent natural swale in the southwestern portion of the property. A soil pit in the berm on the east side of the property revealed anthropogenic surface horizons from 0 to 15 inches with no hydric soil indicators. Shovel testing on the berm in the western portion of the property showed no hydric soil indicators in the slight north-south swale that appears to breach the berm. Results from the soil pit and the shovel tests in the berm reveal that the whole berm has no hydric soil features and is therefore not a wetland. Vegetation between the berm and the B Channel ditch was mesic to dry, with a dominance of FAC and FACU species. Shovel testing between the trail and the B Channel ditch also revealed non-hydric soils. Results from soil pits located in the lowest micro-topographical point south of the trail showed that even these low areas had a lack of hydric soils along the trail itself and from this it can be assumed that the trail, and much of the area between the trail and the B Channel Ditch is in upland status. Therefore, the PSS wetlands on the parcel are not directly abutting (or adjacent to, as per the NWPR) the perennial B Channel Ditch nor is there a surface water connection through the upland berm to the B Channel Ditch.”

As the Tin Cup wetland is neighboring the POA-2013-00257 parcel, and historically portrayed a direct surface connection only through the wetlands described in the above site visit notes, it can be assumed that the Tin Cup wetland no longer holds a direct surface connection to Channel B, an a(2) water, and is, therefore, no longer a jurisdictional wetland.