



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-May-2021

ORM Number: LRB-2020-00049

Associated JDs: N/A or ORM numbers and identifiers: N/A

Review Area Location<sup>1</sup>:

State/Territory: OH City: Brimfield Township County/Parish/Borough: Portage County

Center Coordinates of Review Area: Latitude 41.10154 Longitude -81.3933

**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
Stream 1	1110 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1 outflows into Plum Creek which then outflows into the Cuyahoga River (a) (1) water. On older U.S.G.S Quad maps the stream is shown as a solid line (perennial) both onsite and off-site. However, the newest U.S.G.S Quad maps Stream 1 as a hashed (intermittent) line when located on the parcel but shows solid (perennial) line

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<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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			<p>offsite. Stream 1 starts on the western parcel approximately 450 linear feet from the Tallmadge Road (southern parcel boundary) flowing out of a culvert heading in a north-east direction. It reaches Parliament Drive and continues due north until the edge northern parcel boundary is reached. It then goes into a culvert under Parliament Drive, daylights off parcel and continues in an easterly manner off parcel. In the natural areas of the stream, pools and riffles, an ordinary high-water mark, defined bed and bank, sediment sorting, and flow were observed both during consultant's original visit (November 5-7, 2019) as well as Corps visit (08-18-2020). Fish were also observed in several deeper riffles by consultant and Corp. This perennial stream indication was also supported by the APT run for the 08-18-2020 date indicating that this date was during the drier than normal precipitation conditions, but flow was still observed. Therefore, un-named stream 1 was deemed a perennial stream due to these observations. Based upon a review of available information, it has been determined that Stream 1 is an (a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.</p>
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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):

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(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland J	0.07 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland J meets the definition of a wetland and is located on the western parcel. Wetland J was observed abutting Stream 1 during the site visit. During the site visit, evidence of inundation from Stream 1 to Wetland J was also observed by the presence of sediment on leaves of wetland vegetation and by saturated soil between Wetland J to Stream 1. Based upon a review of available information, it has been determined that Wetland J is an (a)(4) wetland that abuts an (a)(1) – (a)(3) water.
Wetland K	0.29 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland K meets the definition of a wetland and is located on the eastern parcel that extends offsite approximately 220 LF north which abuts Stream 1. Wetland K was observed directly abutting Stream 1. Based upon a review of available information, it has been determined that Wetland K is an (a)(4) wetland that abuts an (a)(1) – (a)(3) water.

**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
Wetland A	0.1 acres	(b)(1) Non-adjacent wetland	Wetland A meets the definition of a wetland and it is located approximately 897 linear feet to the south of Stream 1, an (a)(2) perennial tributary. Wetland A does not abut an (a)(1) – (a) (3) water and is located on the eastern side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 is 6 to 12 feet below the elevation of Wetland A. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from the Stream 1 into the wetland. Due to the height of the creek and the distance of the wetland from Stream 1, it has been determined that Wetland A is not inundated by flooding from an (a)(1)-(a)(3) water in a

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			typical year. There are no natural or artificial berms or structures located between Wetland A and an (a)(1)-(a)(3) water. It has been determined that that Wetland A meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland B	0.07 acres	(b)(1) Non-adjacent wetland	Wetland B meets the definition of a wetland and it is located approximately 470 linear feet to the south of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland B does not abut an (a)(1) – (a) (3) water and is located on the eastern side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 6 to 12 feet elevation increase before reaching elevations to Wetland B. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from Stream 1, it has been determined that Wetland B is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland B and an (a)(1)-(a)(3) water. It has been determined that that Wetland B meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland C	0.59 acres	(b)(1) Non-adjacent wetland	Wetland C meets the definition of a wetland and it is located approximately 985 linear feet to the south of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland C does not abut an (a)(1) – (a) (3) water and is located on the eastern side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 6 to 12 feet elevation increase before reaching elevations to Wetland C. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from Stream 1, it has been determined that Wetland C is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland C and an (a)(1)-(a)(3) water. It has been determined that that Wetland C meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland D	0.01 acres	(b)(1) Non-adjacent wetland	Wetland D meets the definition of a wetland and it is located approximately 1433 linear feet to the south of Stream 1, an (a)(2) perennial tributary. Stream 1 flows

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			to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland D does not abut an (a)(1) – (a) (3) water and is located on the eastern side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 6 to 12 feet elevation increase before reaching elevations to Wetland D. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from Stream 1, it has been determined that Wetland D is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland D and an (a)(1)-(a)(3) water. It has been determined that that Wetland D meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland E	0.64 acres	(b)(1) Non-adjacent wetland	Wetland E meets the definition of a wetland and it is located approximately 165 linear feet to the west of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland E does not abut an (a)(1) – (a) (3) water and is located on the western side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 20 feet elevation increase before reaching elevations to Wetland E. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from Stream 1 it has been determined that Wetland E is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland E and an (a)(1)-(a)(3) water. It has been determined that that Wetland E meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland F	0.04 acres	(b)(1) Non-adjacent wetland	Wetland F meets the definition of a wetland and it is located approximately 432 linear feet to the west of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland F does not abut an (a)(1) – (a) (3) water and is located on the western side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 26 feet elevation increase before

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			<p>reaching elevations to Wetland F. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from the Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from the Stream 1, it has been determined that Wetland F is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland F and an (a)(1)-(a)(3) water. It has been determined that that Wetland F meets the Exclusion (b)(1) Non-adjacent wetland.</p>
Wetland G	0.28 acres	(b)(1) Non-adjacent wetland	<p>Wetland G meets the definition of a wetland and it is located approximately 360 linear feet to the west of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland G does not abut an (a)(1) – (a) (3) water and is located on the western side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 12 feet elevation increase before reaching elevations to Wetland G. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from the Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from the Stream 1, it has been determined that Wetland G is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland G and an (a)(1)-(a)(3) water. It has been determined that that Wetland G meets the Exclusion (b)(1) Non-adjacent wetland.</p>
Wetland H	0.14 acres	(b)(1) Non-adjacent wetland	<p>Wetland H meets the definition of a wetland and it is located approximately 340 linear feet to the west of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland H does not abut an (a)(1) – (a) (3) water and is located on the western side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 12 feet elevation increase before reaching elevations to Wetland H. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from the Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from the</p>

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			Stream 1, it has been determined that Wetland H is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland H and an (a)(1)-(a)(3) water. It has been determined that that Wetland H meets the Exclusion (b)(1) Non-adjacent wetland.
Wetland I	0.18 acres	(b)(1) Non-adjacent wetland	Wetland I meets the definition of a wetland and it is located approximately 250 linear feet to the west of Stream 1, an (a)(2) perennial tributary. Stream 1 flows to Plum Creek, an (a)(2) perennial tributary to Cuyahoga River, an (a)(1) water. Wetland I does not abut an (a)(1) – (a) (3) water and is located on the western side of the parcel. A review of the Portage County, Ohio GIS Web mapping Application using 2-foot contour lines indicate that the elevation of Stream 1 bottom to have a 10 feet elevation increase before reaching elevations to Wetland I. The Portage County, Ohio GIS Web Mapping Application indicates that this wetland lies outside the FEMA 100-year flood zone. There is no evidence of wrack lines, sediment deposits or any other indications of flooding from the Stream 1 that is north and east of the wetland. Due to the height of the creek and the distance of the wetland from the Stream 1, it has been determined that Wetland I is not inundated by flooding from an (a)(1)-(a)(3) water in a typical year. There are no natural or artificial berms or structures located between Wetland I and an (a)(1)-(a)(3) water. It has been determined that that Wetland H meets the Exclusion (b)(1) Non-adjacent wetland.
Erosional Feature 1	50 Linear Feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Erosional Feature 1 is located in upland woods between Wetland E and Stream 1. Erosional Feature 1 does not have a defined bed and bank, ordinary high water mark and water was not observed flowing in the feature on either 11-15-2019 during normal precipitation conditions or 8-18-2020 during than drier than normal conditions. It may receive additional water from the upland housing development and roadside ditch Based upon these observations, it has been determined that that Erosional Feature 1 meets the Exclusion (b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.

**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.

X Information submitted by, or on behalf of, the applicant/consultant: *Title(s) and date(s).*  
*Wetland and Watercourse Delineation Report, Proposed Brimfield Commercial Development Property, Brimfield Township, Portage County, Ohio, Brimfield Development Company, Ltd, January 2020*

This information *IS* sufficient for purposes of this AJD.

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Rationale: *N/A*

- Data sheets prepared by the Corps: *Title(s) and/or date(s)*.
- Photographs: *(aerial and other)* Photographs submitted with the Wetland Delineation Report
- Corps Site visit(s) conducted on: *Date(s)*. *18-Aug-2020*
- 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: USACE ORM 2 Dataset
- USGS topographic maps: USACE ORM 2 Dataset

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

Data Source (select)	Name and/or date and other relevant information
USACE Sources	USACE ORM2 and Buffalo GIS Corps Maps
Other Sources	Portage County GIS Mapping accessed 21 April -2020; <a href="https://portageoh-auditor-classic.ddti.net/Map.aspx?Todo=Init">https://portageoh-auditor-classic.ddti.net/Map.aspx?Todo=Init</a> ; 2 ft contours (2016)

**B. Typical year assessment(s):**

The APT pulls precipitation data from NOAA's Daily Global Historical Climatology Network. The APT evaluates normal precipitation conditions based on the three 30-day periods preceding the observation date. For each period, a weighted condition value is assigned by determining whether the 30-day precipitation total falls within, above, or below the 70th and 30th percentiles for totals from the same date range over the preceding 30 years. The APT then makes a determination of "normal," "wetter than normal," or "drier than normal" based on the condition value sum. The APT also displays results generated via the Palmer Drought Severity Index and the University of Delaware WebWIMP.

An APT evaluation was run, as well as reviewing associated aeriels with Google Pro Earth aerial photos for multiple years (April 2005, April 2006, April 2012; and September 2015) to look for changes in wetland shape or inundation from Stream 1. The APT was run for all dates observed from aerial imagery as well as of the consultant site visit (11-15-2019) and the Corps site visit (08-18-2020). The evaluation was run for ten weather station within the vicinity of the site. These weather stations are Ravenna 2.5 S, Tallmadge 0.8 S, Kent 1.5 W, Stow 4 Se, Akron 3.6 ESE, Munroe Falls 0.7 NNW, Stow 1.6 SE, Akron Fulton INTL AP, Akron, Akron Canton RGNL AP.

Results indicate various conditions: On the day of the site visit Fall 2020, the site was experiencing drier than normal precipitation conditions, while the consultants Fall-Winter 2019 visit had normal precipitation conditions observed. Reviewing aeriels for multiple years (4-1-05, 4-1-06, 4-6-12, 9-1-15) also showed normal conditions as well as drier than normal

<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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conditions. Therefore, observations on the Corps visit date of 18-Aug-2020 that occurred during a drier than normal period that confirmed initial consultant observations of a wet period, should be deemed accurate condition assessments for all waters onsite.

Date	PDSI Value	PDSI Class	Season	ARC Score	Antecedent Precip Condition
		Moderate			
11/15/2019	2.28	wetness	Wet Season	13	Normal Conditions
8/18/2020	1.3	Mild wetness	Dry Season	9	Drier than Normal
		Extreme			
4/1/2005	4.21	wetness	Wet Season	10	Normal Conditions
4/1/2006	-1.35	Mild drought	Wet Season	7	Drier than Normal
4/6/2012	-1.64	Mild drought	Wet Season	10	Normal Conditions
		Incipient			
9/1/2015	-0.89	drought	Wet Season	8	Drier than Normal

**C. Additional comments to support AJD:**

Wetlands A, B, C, D, E, F, G, H, and I do not directly abut Stream 1, a perennial stream. A review of aerial imagery obtained from Portage County GIS Web Mapping indicates that floodwater from Stream 1 does not inundate the above-named wetlands. There was no evidence of wrack lines or sediment deposition on vegetation during the site visit or pictures supplied by the consultant that would indicate floodwater from Stream 1 would inundate these wetlands. It has been determined that that Wetlands A, B, C, D, E, F, G, H, and I are not adjacent to an (a)(1)-(a)(3) water. This assessment is based on the following information: 1.) There is a 6 to 20-foot elevation difference from the bottom of Stream 1 to the edges of the named wetlands. 2.) Wetlands range from 250 to 985 linear feet away from Stream 1 in a west or southern direction from Stream 1 (see each Rationale for Exclusion Determination Section D for each wetland description. 3.) Reviewing numerous years on aerial photography (April 2005, April 2006, April 6, 2012, September 2015) showed wetlands E, F, G, H, and I all located in the middle of a farm field which was cropped or hayed from 1994 to current. The wet signatures move slightly but current wetlands were observed in those wet signatures. Wetlands A, B, C, and D are harder to observe some years as they all were located within the wooded section of the parcel. However, elevation height of Stream 1 and the distance between these wetlands from the Stream 1, it has been determined that Wetlands A, B, C, and D are not inundated by flooding from Stream 1. Stream 1 was moved prior to 1994 images. Stream 1 is visible on the image outflowing in an east direction off parcel.

<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 and 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.

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<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.