



**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): [6/22/2020](#)
 ORM Number: [SAJ-2014-03231](#)
 Associated JDs: [N/A](#)
 Review Area Location¹: State/Territory: [FL](#) City: [Bradenton](#) County/Parish/Borough: [Manatee](#)
 Center Coordinates of Review Area: Latitude [27.469283](#) Longitude [-82.674745](#)

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
OSW 73-W	0.15	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch. Beyond delineated limit of tidal influence, this ditch is non-tidal and excluded under (b)(5) and labeled OSW 2-W.
OSW D-1A-E	0.07	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW D-1B-E	0.03	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW D-1C-E	0.10	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW D-2-E	0.58	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW 71-E	0.01	acre(s)	RHA Tidal water is subject to the	Tidally influenced ditch.

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.



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§ 10 Name	§ 10 Size	§ 10 Criteria	Rationale for § 10 Determination	
		ebb and flow of the tide		
OSW D-03-W	0.32	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW D-06-W	0.14	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW D-07-W	0.09	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
OSW 10A-W	0.01	acre(s)	RHA Tidal water is subject to the ebb and flow of the tide	Tidally influenced ditch.
Palma Sola Bay	6,000	linear feet	RHA Tidal water is subject to the ebb and flow of the tide	Tidal Bay in Gulf of Mexico. Palma Sola Bay borders the northern review area boundary and has direct tidal exchange with the tidal wetlands along that boundary. Linear footage noted is an estimation of the length of the northern review area boundary bordered by Palma Sola Bay.

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	
OSW 73-W	0.15	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch. Beyond delineated limit of tidal influence, this ditch is non-tidal and excluded under (b)(5) and labeled OSW 2-W.
OSW D-1A-E	0.07	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the	Tidally influenced ditch.

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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Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size	(a)(1) Criteria	Rationale for (a)(1) Determination	
		ebb and flow of the tide.		
OSW D-1B-E	0.03	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW D-1C-E	0.10	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW D-2-E	0.58	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW 71-E	0.01	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW D-03-W	0.32	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.



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(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
OSW D-06-W	0.14	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW D-07-W	0.09	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
OSW 10A-W	0.01	acre(s)	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidally influenced ditch.
Palma Sola Bay	6,000	linear feet	(a)(1) Water is also subject to Sections 9 or 10 of the Rivers and Harbors Act - RHA Tidal water is subject to the ebb and flow of the tide.	Tidal Bay in Gulf of Mexico. Palma Sola Bay borders the northern review area boundary and has direct tidal exchange with the tidal wetlands along that boundary. Linear footage noted is an estimation of the length of the northern review area boundary bordered by Palma Sola Bay.

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.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
W-10-W	27.20	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Tidal (mangrove) wetlands along the northern review area boundary which are located in Palma Sola Bay and share a direct tidal hydrological connection with Palma Sola Bay.
W-08-E	16.23	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Tidal (mangrove) wetlands along the northern review area boundary which are located in Palma Sola Bay and share a direct tidal hydrological connection with Palma Sola Bay.
W-07-E	5.35	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Tidal (mangrove) wetlands along the northern review area boundary which are located in Palma Sola Bay and share a direct tidal hydrological connection with Palma Sola Bay.
W-15B-W	1.24	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Tidal (mangrove) wetlands along large tidal canal (form mangrove fringe) and share a direct hydrological connection with the canal. Canal is just outside the review area boundary.
W-15A-W	0.12	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Tidal (mangrove) wetlands along large tidal canal (form mangrove fringe) and share a direct hydrological connection with the canal. Canal is just outside the review area boundary.
W-12-W	0.58	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	This mangrove wetland is a continuation of Wetland 15 (W-15A-W/W-15B-W). North of a paved parking lot, these wetlands are continuous. The attached map shows them connected via tidal ditch. On its east side, W-12-W is connected to tidal ditch OSW D-06-W via 24 inch RCP under 119th St W.
W-13-W	2.46	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditches OSW D-06-W and D-07-W.
W-14-W	0.98	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditch OSW D-07-W. Also connected to tidal canal south of Cortez Road by 30 inch RCP.
W-01-E	7.25	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditch OSW D-1A-E. Also connected to large tidal canal south of Cortez Road by 30 inch RCP.
W-02-E	2.16	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditches OSW D-1A-E and OSW D-1B-E.
W-03-E	0.71	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditches OSW D-1B-E and OSW D-1C-E.
W-04-E	2.96	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditch OSW D-1C-E. Also connected to tidal ditch OSW D-2-E by 18 inch RCP.
W-05-E	0.93	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3)	Mangrove wetland; connected to tidal ditch OSW D-2-E via 12 inch PVC under earthen road.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
			water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	
W-06-E	0.73	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Mangrove wetland; abuts tidal ditch OSW D-2-E.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W-09-E	0.11	acre(s)	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6).	Excavated farm pond.
OSWs: 2-W, 3-W, 4-W, 5-W, 6-W, 7-W, 8-W, 9-W, 10-W, 11-W, 12-W, 13-W, 14-W, 15-W, 16-W, 17-W, 18-W, 19-W, 20-W, 21-W, 22-W, 24-E, 25-E, 26-E, 27-E, 28-E, 29-E, 30-E, 31-E, 32-E,	23.28	acre(s)	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1).	Non-tidal excavated agricultural ditches.

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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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
33-E, 34A-E, 34B-E, 35-E, 36-E, 37-E, 38-E, 39-E, 40-E, 41-E, 42-E, 43-E, 44-E, 45-E, 46-E, 47-E, 48-E, 49-E, 50-E, 51-E, 52-E, 53-E, 54-E, 55-E, 56-E, 57-E, 58-E, 61-E, 62-E, 63-E, 64-E, 65-E, 66-E, 67-E, 68-E, 69-E, 70-E, 72-E				
W-11-W	0.53	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is separated from the (a)(1) water (Palma Sola Bay) by uplands and a ditch and there is no direct hydrologic surface connection between the wetland and the (a)(1) water.
W-16-W	0.04	acre(s)	(b)(1) Non-adjacent wetland.	Wetland is separated from the (a)(1) water (large tidal canal located outside the review area) by a large berm, likely the result of historical excavation.

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: [Wetland delineations; Specific Purpose Survey dated \(revised\) July 29, 2019; Wetlands, Ditches and Water Control Structures map dated July 18, 2019.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A or describe rationale for insufficiency \(including partial insufficiency\).](#)

Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)

Photographs: [Aerial and Other: Aerials provided by applicant, available in Google Earth and historical aerials obtained from <https://ufdc.ufl.edu/aerials/map> \(1940, 1957, 1970\); site photos taken by Corps during site visits indicated below.](#)

Corps site visit(s) conducted on: [November 05, 2015; January 25, 2018; February 01, 2018.](#)

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: [NRCS soil maps and Hydric Rating by Map Unit from USDA Web Soil Survey \(<https://websoilsurvey.sc.egov.usda.gov/>\)](#)

USFWS NWI maps: [Title\(s\) and/or date\(s\).](#)

USGS topographic maps: [USGS topographic map viewed in Google Earth \(2020 Earth Point\).](#)



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Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS/WBD/NHD data/maps	NHD data viewed in The National Map (https://viewer.nationalmap.gov/); NHD flowlines data viewed in Google Earth.
USDA Sources	NRCS soil maps and Hydric Rating by Map Unit from USDA Web Soil Survey (https://websoilsurvey.sc.egov.usda.gov/).
Other NOAA data (specify)	NOAA National Weather Service Advanced Hydrologic Prediction Service (https://water.weather.gov/precip/#)
USACE Sources	Antecedent Precipitation Tool
LiDAR data/maps	LiDAR data from South Florida Water Management District, viewed in https://www.arcgis.com/home/webmap/viewer.html .
Other Sources	United States Drought Monitor (https://droughtmonitor.unl.edu/)

B. Typical year assessment(s): As noted above and in the section below, on the east side of 115th St W, wetlands and ditches receive tidal flow from a large tidal canal south of Cortez Rd via a 30 inch culvert in W-01-E. The mean high water (MHW) elevation as noted on the survey provided by the applicant is 0.21' NAVD88. The north invert of this culvert is -0.40' NAVD88; the south invert is -0.94' NAVD88. Given the MHW elevation of 0.21' NAVD88, tidal waters enter the wetland and ditch system on a regular basis. Water was observed in the tidal ditches during the Corps' site visits. The tidally influenced ditches and abutting wetlands continue east along the southern part of the property, north of Cortez Road. Wetland W-05-W is separated from (a)(1) water tidal ditch OSW D-2-E by an earthen road. There is a 12 inch pipe connecting this wetland to the (a)(1) water under the road, allowing for direct hydrologic surface connection. The north invert of the pipe is -0.72' NAVD88; the south invert of the pipe is -0.56' NAVD88. Given the elevations of MHW and the pipe, direct surface hydrologic connection between the wetland and the (a)(1) water is expected on a regular basis. Water was observed in the (a)(1) water and wetland W-05-W during the Corps site inspections. In addition, LiDAR shows no appreciable difference in elevation between the tidal canal, the mangrove wetlands and the tidal ditches east of 115th St W.

West of 115th St W, there is a large tidal canal that is outside of the review area boundary. Wetlands W-15A-W, W-15B-W and W-12-W abut this canal, and tidal waters flow east under 119th St W via a 24 inch culvert. The west invert of the culvert is -1.34' NAVD88; the east invert is -2.02' NAVD88. Given the elevation of MHW and the elevation of the culvert inverts, tidal waters flow from the canal to the ditches and wetlands east of the canal on a regular basis. In addition, Wetland W-14-W receives tidal flow from a tidal canal south of Cortez Road via a 30 inch culvert. The north invert of the culvert is -0.67' NAVD88; the south invert is -0.51' NAVD88. Given the elevation of MHW and the elevation of the culvert inverts, tidal waters flow from the canal to the ditches and wetlands north of Cortez Road on a regular basis. In addition, LiDAR shows no appreciable difference in elevation between the tidal canals and the wetlands and ditches west of 115th St W. The Corps observed water in these wetlands and ditches during the site visits.

The Corps conducted site visits on November 05, 2015; January 25, 2018; and February 02, 2018. Based on the information obtained from the Antecedent Precipitation Tool and the NOAA Advanced Hydrologic Prediction Service, these dates were all during periods of normal or drier than normal precipitation conditions. The water the Corps observed in these aquatic resources was not due to wetter than normal conditions. The direct surface hydrologic connections noted above occur in a typical year and likely on a regular basis.



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C. Additional comments to support AJD: The review area consists of a large agricultural property with dozens of agricultural ditches. The property has been in agricultural use, with the excavated agricultural ditches, since the 1940s or earlier, based on available aerial photos. These internal ditches discharge north to Palma Sola Bay and south to W-12-W and the large tidal canal south of the southeastern boundary of the review area via one-way tidal flap gates. These ditches are nontidal and are not (a)(1) or (a)(2) waters. They therefore meet the (b)(5) exclusion.

The site supports large swaths of mangrove wetlands along the northern portion of the property in Palma Sola Bay. These wetlands directly abut and share a tidal hydrological connection with the waters of Palma Sola Bay and are therefore (a)(4) waters.

There is a large tidal canal that is located outside of the southwestern review area boundary. This tidal canal supports a mangrove wetland fringe (W-15A-W and W-15B-W) and contributes tidal flow to the mangrove wetlands and ditches located to the east of the canal, west of 115th St SW. In addition, these wetlands and tidal ditches receive tidal flow from a tidal ditch south of Cortez Rd via a culvert in W-14-W. East of 115th St W, the site supports several mangrove wetlands which are all interconnected via tidally influenced ditches. These wetlands and ditches receive tidal flow from a large tidal canal south of Cortez Rd via a culvert in W-01-E. The MHW elevation as noted on the survey provided by the applicant is 0.21' NAVD88. Based on the survey, all of the invert elevations of the culverts connecting these wetlands and ditches to tidal waters are well below the MHW elevation. These ditches, being subject to the ebb and flow of the tide, are therefore subject to Section 10 RHA jurisdiction, and are (a)(1) waters. The wetlands described above either directly abut or have a surface hydrological connection to these (a)(1) waters via culverts; therefore, these wetlands are (a)(4) waters.

Wetlands W-11-W and W-16-W are separated from (a)(1) waters by artificial barriers with no direct hydrological surface connection between the wetlands and (a)(1) waters through any artificial features. These wetlands are therefore excluded under (b)(1).

The aquatic resource labeled W-09-W is a farm pond excavated in the 1940s or earlier. The pond was likely excavated in uplands or in wetlands that would not be considered (a)(4) waters. The pond is therefore excluded under (b)(8).