



**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): 7/30/2020

ORM Number: SAJ-2020-00943

Associated JDs: SAJ-2016-01911 (BEM)

Review Area Location¹: State/Territory: Florida City: Estero County/Parish/Borough: Lee

Center Coordinates of Review Area: Latitude 26.42450 Longitude -81.79990

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
- 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.



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D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
W-1	2.30	acre(s)	(b)(1) Non-adjacent wetland.	Reference the Navigable Waters Protection Rule, W-1 is not adjacent or hydrologically connected to (a)(1) - (a)(3) waters. W-1 is surrounded by uplands in a residential community and approximately 3,000-feet (0.6 miles) from the nearest tributary, the headwaters of the Estero River.

Exclusion Name	Exclusion Size		Exclusion ⁶	Rationale for Exclusion Determination
SW-1	1.24	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).	SW-1 is an artificial pond excavated in uplands that is surrounded by uplands in a residential community.

Excluded waters ((b)(1) – (b)(12)): ⁷				
Exclusion Name	Exclusion Size		Exclusion ⁸	Rationale for Exclusion Determination
SW-2	6.85	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	SW-2 is a stormwater control pond excavated in a historic that is used to treat stormwater runoff from the existing Estero High School upland

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.

⁶ 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.

⁷ 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.

⁸ 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)):9				
Exclusion Name	Exclusion Size		Exclusion10	Rationale for Exclusion Determination
SW-3	1.32	acre(s)	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	SW-3 is a stormwater control pond excavated in a historic upland that is used to treat stormwater runoff from the existing Estero High School.

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: [Narrative](#), [LIDAR data](#), [data forms and map exhibits](#)

This information [is](#) sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [12 February 2020L](#)
- Photographs: [Aerial: Historic aerial photos \(1972-2019\)](#)
- Corps site visit(s) conducted on: [12 June 2020](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [SAJ-2016-01911 \(BEM\)](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [NRCS Soil Survey Map – February 2020](#)
- USFWS NWI maps: [USFWS NWI Map – February 2020](#)
- USGS topographic maps: [USGS topographic map – February 2020](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Topographic map
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	LIDAR Data

⁹ 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.

¹⁰ 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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B. Typical year assessment(s): *N/A*

C. Additional comments to support AJD: One on-site wetland totaling approximately 2.20± acres was flagged on the project site by Johnson Engineering, Inc. ecologists on February 17, 2020. Review of 1972 historic aerial photography suggests the onsite wetland was originally part of a larger isolated wetland to the west, which was surrounded by upland farm fields. The on-site wetland is currently surrounded on all sides by fill material and is believed to be isolated from any connection to offsite waters or wetlands with hydrology coming from on-site drainage and rainfall. Review of historic aerial photography indicates the areas surrounding the wetland were upland farm fields as far back as 1972. Ponds SW-1 is an artificial pond excavated in uplands that is surrounded by uplands in a residential community and is not considered jurisdictional. Ponds SW-2 and SW-3 are stormwater control pond excavated in a historic uplands that is used to treat stormwater runoff from the existing Estero High School and are not considered jurisdictional.