



**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): 9/1/2020

ORM Number: SAJ-2020-01908

Associated JDs: N/A

Review Area Location¹: State/Territory: Florida City: Bellair Beach County/Parish/Borough: Pinellas

Center Coordinates of Review Area: Latitude 27.916064° Longitude -82.841384°

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
Clearwater Harbor	45	linear feet	RHA Tidal water is subject to the ebb and flow of the tide	Clearwater Harbor is a large tidal estuary in the Gulf of Mexico. Clearwater Harbor borders the review area and interfaces with the stormwater outfall ditch as explained below; therefore, this water is included in the JD form.

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
Clearwater Harbor	45	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.	Clearwater Harbor is a large tidal estuary in the Gulf of Mexico. Clearwater Harbor borders the review area and interfaces with the stormwater outfall ditch as explained below; therefore, this water is included in the JD form.

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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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.

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.	N/A.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Stormwater Pond	0.08	acre(s)	(b)(12) Waste treatment system.	The stormwater pond is a permitted treatment system constructed in accordance with the requirements of the CWA to retain and treat stormwater prior to discharge. The pond is a permitted treatment system required by Southwest Florida Water Management District (SWFWMD) permit number 46006226.004 for the upland city hall/community center. The SWFWMD requires regular maintenance of this treatment system.
Stormwater outfall ditch	130	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	The ditch is classified as a stormwater outfall ditch by the SWFWMD, and was constructed with the stormwater pond for the purpose of conveying the treated stormwater to Clearwater Harbor. Water from the pond enters a control structure, then flows east through a concrete pipe under the road before it enters the ditch. The SWFWMD requires regular maintenance of this ditch along with the stormwater pond as part of the overall stormwater system. Historical aerials from 1957, 1971 and 1984, as well as historical topographic maps from 1974 and 1987 show that the ditch was excavated in uplands in the late 1980s/early 1990s. Available tidal datums for NOAA station 8726724, Clearwater Beach, show that the mean higher high water (MHHW) elevation is 0.95 ft NAVD88. This is the closest available approximation of the annual high tide elevation. The uplands from which the

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
			ditch was excavated are at elevations of approximately 4-5 ft NAVD88, further supporting the conclusion that the ditch was excavated from uplands. Drawings provided by the applicant show that the surveyed mean high water line at the site is 0.64 ft NAVD88. The station datum for MHW is 0.61 ft NAVD88, a difference of only 0.36 inch. The drawings show that the bottom elevations of the ditch are all above the mean high water line, (therefore it is not subject to Section 10 of the Rivers and Harbors Act), as well as above the approximated high tide line. The eastern end of the stormwater outfall ditch interfaces with an (a)(1) water (Clearwater Harbor); however, the Rule states that the (b)(10) exclusion applies even if the water has a surface connection to a downstream jurisdictional water in a typical year or is inundated by flooding from an (a)(1)-(a)(3) water in a typical year. The stormwater ditch therefore meets exclusion (b)(10).

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: Project drawings and 1991 aerial submitted with the preconstruction notification (PCN) dated April 29, 2020; SWFWMD documents provided Aug 04, 2020.

This information is and is not sufficient for purposes of this AJD.

Rationale: The Corps accessed additional resources to complete the JD.

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

Photographs: Aerial: 1957 and 1984 aerials accessed from the University of Florida Digital Collection (<https://ufdc.ufl.edu/aerials/map>) on 17 Aug 2020; 1971 aerial viewed in Historic Aerials (<https://www.historicaerials.com/viewer>) on 17 Aug 2020; available aerials viewed in Google Earth Pro (1995-2019); 1991 aerial provided with the PCN dated April 29, 2020.

Corps site visit(s) conducted on: Date(s).

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: Title(s) and/or date(s).

USGS topographic maps: 1974, 1987, accessed in the USGS Historical Topographic Map Explorer (<https://livingatlas.arcgis.com/topoexplorer/index.html>) on Aug 17-18, 2020.

Other data sources used to aid in this determination:



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Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
Other NOAA data (specify)	NOAA tidal datums for station 8726724, Clearwater Beach, FL, accessed at https://tidesandcurrents.noaa.gov/ on Aug 18, 2020.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

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

C. Additional comments to support AJD: N/A