



**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): 10/8/2020
 ORM Number: SAJ-2011-01869-JPF
 Associated JDs: SAJ-2011-01869-JPF-Main Project Area; SAJ-2011-01869-JPF-Parcel C
 Review Area Location¹: State/Territory: FL City: Ona County/Parish/Borough: Hardee
 Center Coordinates of Review Area: Latitude 27.510096 Longitude -82.012506

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.	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



**U.S. ARMY CORPS OF ENGINEERS
 REGULATORY PROGRAM
 APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
 NAVIGABLE WATERS PROTECTION RULE**

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
Ditch 1	408	linear feet	(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).	The feature is a ditch as defined in 33 CFR 328.3(c)(2). It is also a wetland as defined in 33 CFR 328.3(c)(2) because of the presence of hydrology, wetland vegetation and presumed hydric soils. However, Ditch 1 is not an (a)(1) or (a)(2) water, and although it may have been excavated in a wetland, that wetland does not satisfy the conditions of (c)(1). The onsite inspection done with the applicant on September 24, 2020 supports the conclusions reached.
Wetland 1	4.7	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 1 is a wetland because of the presence of wetland vegetation, hydric soil, and hydrology [33 CFR 328.3(c)(16)]. Wetland 1 is not an (a)(1) – (a)(4) water and it does not fall into any of the (b)(2) – (b)(12) exclusions. The submitted Wetland Determination Data Forms provide information supporting the wetland determination from the upland determination. The onsite inspection done with the applicant on September 24, 2020 supports the conclusions reached.
Wetland 2	0.4	acre(s)	(b)(1) Non-adjacent wetland.	Wetland 2 is a wetland because of the presence of wetland vegetation, hydric soil, and hydrology [33 CFR 328.3(c)(16)]. Wetland 2 is not an (a)(1) – (a)(4) water and it does not fall into any of the (b)(2) – (b)(12) exclusions. The submitted Wetland Determination Data Forms provide information supporting the wetland determination from the upland determination. The onsite inspection done with the applicant on September 24, 2020 supports the conclusions reached.

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**

Pond 1	0.8	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).	Pond 1 is a stock watering pond constructed within Wetland 1. Based on the available aerials, Pond 1 is not an impoundment of a jurisdictional water. Pond 1 is not visible in the 1942 aerial, however it is present in the 1958 aerial. Wetland 1 would not have been considered a jurisdictional wetland under Section 404 of the Clean Water Act between 1942 and 1958 and is not a jurisdictional water today as described above. Therefore Pond 1 is excluded under 33 CFR 328.3(b)(8).
Ditch 2	283	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	Based on its position at the 'high' end of this relatively small drainage system, the lack of flow observed during the 24 September 2020 site inspection, and the applicant's statement that Ditch 2 is ephemeral, the Corps determined that this feature has ephemeral flow. Therefore Ditch 2 is excluded under 33 CFR 328.3(b)(3)

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: [The file titled "20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf" is in the AR for this AJD.](#)

This information is not sufficient for purposes of this AJD.

Rationale: [The Corps supplemented the information provided with its own information, and performed a site inspection on September 24, 2020.](#)

Data sheets prepared by the Corps: [The file titled "20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf" includes the data sheets prepared by the applicant and accepted by the Corps](#)

Photographs: [Aerial and Other](#): The applicant provided current and historic aerials, as well as site photos, in the file [20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf](#). The Corps additionally reviewed the following aerials: 19420319 Aerial zoomed in to parcels 1 and 2.pdf, 19580209 aerial parcels A-B.pdf, 19680126 aerial parcels A-B.pdf, 19740410 aerial parcels A-B.pdf, 20180320 GE aerial N parcels.pdf, 20190128 GE aerial N parcels.pdf, 20200422 Digital Globe aerial N parcels.pdf. The Corps also took photos during its September 24, 2020 site visit, as documented in the file ["20200924 site visit pics and notes.pdf"](#).

Corps site visit(s) conducted on: [September 24, 2020](#)

Previous Jurisdictional Determinations (AJDs or PJDs): [SAJ-2011-01869-JPF for the adjacent Ona Mine.](#)

Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)

USDA NRCS Soil Survey: [20200731_Ona Smith Infill Parcels_Hydric_Rating_by_Map_Unit.pdf](#)

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

USGS topographic maps: [As provided in the file 20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf](#)



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

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	National Regulatory Viewer: 20200925 National Reg Viewer 3DEP Digital Elevation Model - W side.pdf, 20200925 National Reg Viewer 3DEP Hillshade - W ditch and wetland.pdf
State/Local/Tribal Sources	University of Florida Institute for Food and Agricultural Sciences - Florida Automated Weather Network (https://fawn.ifas.ufl.edu/): 20200923 3-day precip for Ona Station FAWN - Florida Automated Weather Network.pdf, 20200923 7-day precip for Ona Station FAWN - Florida Automated Weather Network.pdf University of Florida Digital Collections – Aerial Photography: Florida Collection (https://ufdc.ufl.edu/aerials/map): 19420319 Aerial zoomed in to parcels 1 and 2.pdf, 19580209 aerial parcels A-B.pdf, 19680126 aerial parcels A-B.pdf, 19740410 aerial parcels A-B.pdf
Other Sources	AR for adjacent Ona Mine (SAJ-2011-01869): 20130723 Ona AJD Maps - HCB - topo- zoomed in.pdf, 20130723 Ona AJD Reach 813 Rapanos form.pdf, 20181221 513A info from Ona IP.pdf Google Earth Pro: 20180320 GE aerial N parcels.pdf, 20190128 GE aerial N parcels.pdf Digital Globe (https://evwhs.digitalglobe.com): 20200422 Digital Globe aerial N parcels.pdf

B. Typical year assessment(s): 19420319 APT results.pdf, 19580209 APT results.pdf, 19680126 APT results.pdf, 19740410 APT results.pdf, 20180320 APT results.pdf, 20190128 APT results.pdf, 20200422 APT results.pdf, and 20200924 APT results.pdf

C. Additional comments to support AJD: [This form covers Parcels A and B of the three parcels included in the applicant's July 28, 2020 request for an AJD. Parcel C is on a separate form.](#)



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 ORM Number: SAJ-2011-01869-JPF
 Associated JDs: SAJ-2011-01869-JPF-Main Project Area; SAJ-2011-01869-JPF-Parcels A & B
 Review Area Location¹: State/Territory: FL City: Ona County/Parish/Borough: Hardee
 Center Coordinates of Review Area: Latitude 27.497342 Longitude -82.013860

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: All of parcel IF-21-C is dry land, based on the information provided in the application, available imagery, additional information obtained by the Corps and included in the record, and the Corps' September 24, 2020 site inspection.
- 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.

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**

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.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
N/A.	N/A.	N/A.	N/A.

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: [See file titled "20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf"](#)

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

Rationale: [The Corps supplemented the information provided with its own information, and performed a site inspection on September 24, 2020.](#)

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

Photographs: [Aerial and Other: Photos in file titled "20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf"; 20200422 Digital Globe aerial S parcel.pdf; 20170107 GE aerial S parcel.pdf; 20180320 GE aerial S parcel.pdf; 20190128 GE aerial S parcel.pdf](#)

Corps site visit(s) conducted on: [September 24, 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: [20200731_Ona Smith Infill Parcels_Hydric_Rating_by_Map_Unit.pdf](#)

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

USGS topographic maps: [As provided in the file 20200728 email from Mosaic - Smith parcels JD request_with attachments.pdf](#)

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): [20180320 APT results.pdf; 20190128 APT results.pdf; 20200422 APT results.pdf, and 20200924 APT results.pdf](#)

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
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C. Additional comments to support AJD: This form covers Parcel C of the three parcels included in the applicant's July 28, 2020 request for an AJD. Parcels A and B are on a separate form.