



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS

NORFOLK DISTRICT FORT NORFOLK
803 FRONT STREET NORFOLK VA 23510-1011

October 12, 2023

PRELIMINARY JURISDICTIONAL DETERMINATION (PJD)

Eastern Virginia Regulatory Section
NAO-2022-01587 (Speights Run Reservoir)

Coastal Virginia Developers, LLC
Bob Arnette
5807 Portsmouth Blvd
Portsmouth, VA 23701

Dear Mr. Arnette:

This letter is in regard to your request for a preliminary jurisdictional determination of the aquatic resources for a project site that includes an approximately 113-acre parcel and an 11.54-acre area bordering the parcel, south of Manning Road in Suffolk, VA (Tax Parcels 151078000 and 151069000).

The map entitled "Wetland Delineation Exhibit" for the Manning Road Parcels dated June 14, 2022, by MSA, P.C. (copy enclosed) provides the locations of the aquatic resources on the property referenced above. The study area contains approximately 5.26 acres of wetlands, 2.46 acres of open water and 1,587 linear feet of stream, as shown on the attached PJD Form.

These aquatic resources exhibit wetland criteria as defined in the 1987 Corps of Engineers Wetland Delineation Manual and the Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Atlantic and Gulf Coastal Plain Region. This site also contains aquatic resources with an ordinary high water mark (or high tide line). This preliminary jurisdictional determination and associated aquatic resource delineation map may be submitted with a permit application. This letter is not confirming the Cowardin classifications of these aquatic resources.

Please be aware that you may be required to obtain a Corps permit for any discharge of dredged and/or fill material, either temporary or permanent, into a water of the U.S. In addition, you may be required to obtain a Corps permit for certain activities occurring within, under, or over a navigable water of the U.S. subject to the Section 10 of the Rivers and Harbors Act. Furthermore, you may be required to obtain state and local authorizations, including a Virginia Water Protection Permit from the Virginia Department of Environmental Quality (DEQ), a permit from the Virginia Marine Resources Commission (VMRC), and/or a permit from your local wetlands board.

This is a preliminary jurisdictional determination and is not a legally binding determination regarding whether Corps jurisdiction applies to the aquatic resources in

question. To determine Corps' jurisdiction, you may request and obtain an approved jurisdictional determination.

This delineation of aquatic resources can be relied upon for no more than five years from the date of this letter. New information may warrant revision. Enclosed is a copy of the "Preliminary Jurisdictional Determination Form". Please review the document, sign, and return one copy to the Corps, either by email (Melissa.a.nash@usace.army.mil) or by standard mail to 803 Front Street Norfolk, VA 23510

If you have any questions, please contact me either by telephone at [REDACTED] COS - PII or by email at melissa.a.nash@usace.army.mil .

Sincerely,

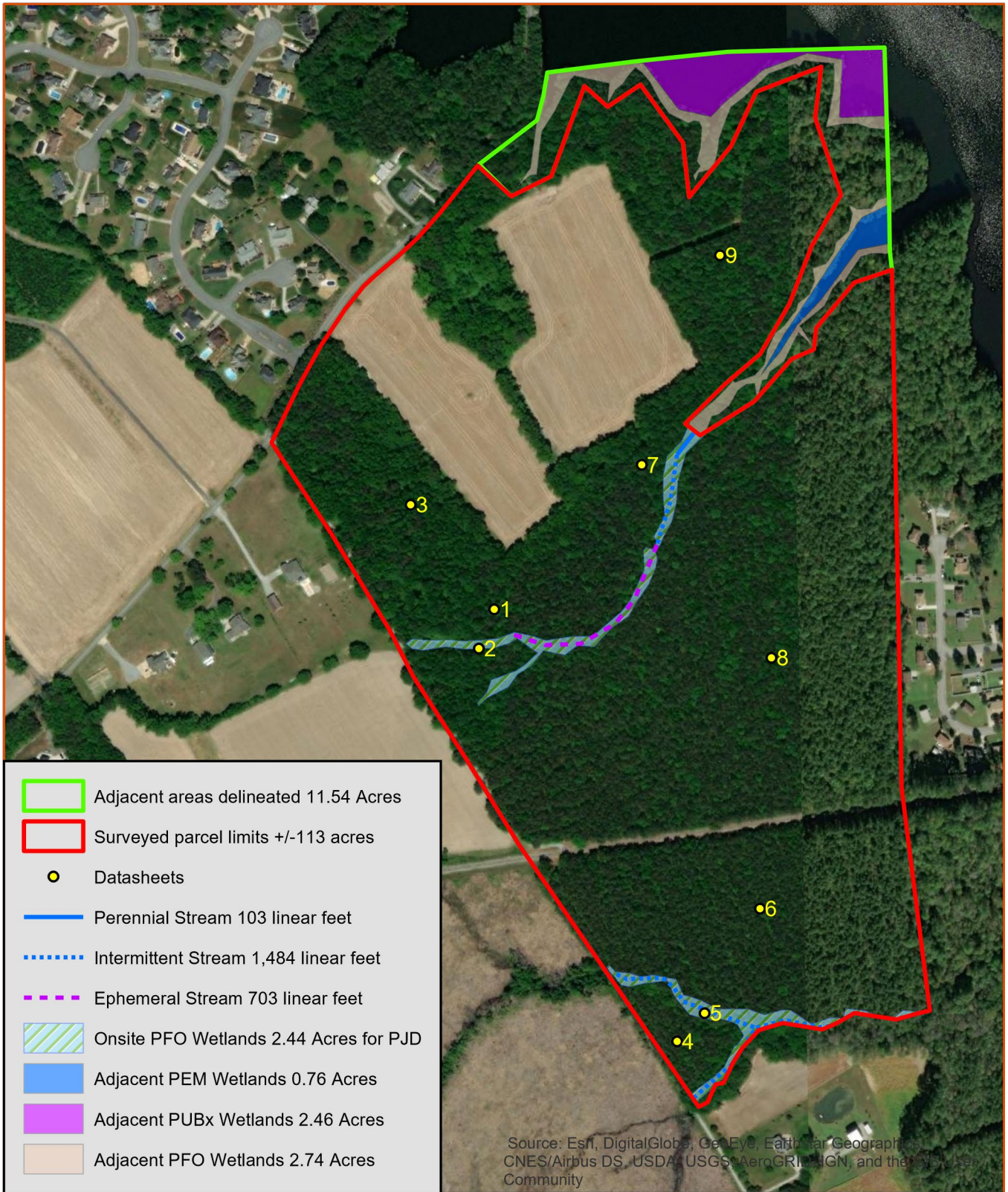


Melissa Nash
Eastern Virginia
Regulatory Section

Enclosure(s):

cc:

Brian Owen, MSA



- Adjacent areas delineated 11.54 Acres
- Surveyed parcel limits +/-113 acres
- Datasheets
- Perennial Stream 103 linear feet
- Intermittent Stream 1,484 linear feet
- Ephemeral Stream 703 linear feet
- Onsite PFO Wetlands 2.44 Acres for PJD
- Adjacent PEM Wetlands 0.76 Acres
- Adjacent PUBx Wetlands 2.46 Acres
- Adjacent PFO Wetlands 2.74 Acres

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

Mapped by BRO
Buckhorn, VA USGS Quadrangle Topographic Map



WETLAND DELINEATION EXHIBIT

JURISDICTIONAL DETERMINATION REQUEST
MANNING ROAD PARCELS
MANNING ROAD, SUFFOLK, VIRGINIA



MSA, P.C.
Environmental Sciences, Surveying,
Civil & Environmental Engineering
5032 Rouse Drive, Suite 200
Virginia Beach, VA, 23462
757-490-9264 www.msaonline.com

MSA JOB #
22052

DATE:
JUNE 14, 2022

MAPPED BY:
BRO

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 10-12-2023

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Coastal Virginia Developers, LLC Bob
Arnette
5807 Portsmouth Blvd
Portsmouth, VA 23701

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

NAO, Coastal Virginia Developers, LLC / JD / Manning Road Parcels / Suffolk, NAO-2022-01587

D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:

(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)

State: VA County/parish/borough: City: Suffolk
Center coordinates of site (lat/long in degree decimal format): Lat.:
36.71° Long.: -76.637°
Universal Transverse Mercator: 18
Name of nearest waterbody: Pitchkettle Creek

E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT APPLY):

- Office (Desk) Determination. Date: 3-10-2023
- Field Determination. Date(s):

TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE" SUBJECT TO REGULATORY JURISDICTION.

Site Number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e., wetland vs. nonwetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e., Section 404 or Section 10/404)
Intermittent stream	36.709863	-76.636476	1484 feet	Non-wetland waters	None
Offsite open water	36.713376	-76.636192	2.46 acres	Non-wetland waters	None
Offsite PEM	36.71171	-76.634551	0.076 acres	Wetland	None
Offsite PFO	36.711058	-76.635175	2.74 acres	Wetland	None
Onsite PFO	36.709079	-76.636909	2.44 acres	Wetland	None
Perennial stream	36.710238	-76.635998	103 feet	Non-wetland waters	None

1) The Corps of Engineers believes that there may be jurisdictional aquatic resources in the review area, and the requestor of this PJD is hereby advised of his or her option to request and obtain an approved JD (AJD) for that review area based on an informed decision after having discussed the various types of JDs and their characteristics and circumstances when they may be appropriate.

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

Appendix 2 - PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM

2) In any circumstance where a permit applicant obtains an individual permit, or a Nationwide General Permit (NWP) or other general permit verification requiring "pre-construction notification" (PCN), or requests verification for a non-reporting NWP or other general permit, and the permit applicant has not requested an AJD for the activity, the permit applicant is hereby made aware that: (1) the permit applicant has elected to seek a permit authorization based on a PJD, which does not make an official determination of jurisdictional aquatic resources; (2) the applicant has the option to request an AJD before accepting the terms and conditions of the permit authorization, and that basing a permit authorization on an AJD could possibly result in less compensatory mitigation being required or different special conditions; (3) the applicant has the right to request an individual permit rather than accepting the terms and conditions of the NWP or other general permit authorization; (4) the applicant can accept a permit authorization and thereby agree to comply with all the terms and conditions of that permit, including whatever mitigation requirements the Corps has determined to be necessary; (5) undertaking any activity in reliance upon the subject permit authorization without requesting an AJD constitutes the applicant's acceptance of the use of the PJD; (6) accepting a permit authorization (e.g., signing a proffered individual permit) or undertaking any activity in reliance on any form of Corps permit authorization based on a PJD constitutes agreement that all aquatic resources in the review area affected in any way by that activity will be treated as jurisdictional, and waives any challenge to such jurisdiction in any administrative or judicial compliance or enforcement action, or in any administrative appeal or in any Federal court; and (7) whether the applicant elects to use either an AJD or a PJD, the JD will be processed as soon as practicable. Further, an AJD, a proffered individual permit (and all terms and conditions contained therein), or individual permit denial can be administratively appealed pursuant to 33 C.F.R. Part 331. If, during an administrative appeal, it becomes appropriate to make an official determination whether geographic jurisdiction exists over aquatic resources in the review area, or to provide an official delineation of jurisdictional aquatic resources in the review area, the Corps will provide an AJD to accomplish that result, as soon as is practicable. This PJD finds that there "may be" waters of the U.S. and/or that there "may be" navigable waters of the U.S. on the subject review area, and identifies all aquatic features in the review area that could be affected by the proposed activity, based on the following information:

SUPPORTING DATA. Data reviewed for PJD (check all that apply)

Checked items should be included in subject file. Appropriately reference sources below where indicated for all checked items:

- Maps, plans, plots or plat submitted by or on behalf of the PJD requestor:
Map: "Wetland Delineation Exhibit" for the Manning Road Parcels dated June 14, 2022, by MSA, P.C.
- Data sheets prepared/submitted by or on behalf of the PJD requestor.
 - Office concurs with data sheets/delineation report.
 - Office does not concur with data sheets/delineation report. Rationale: _____.
- Data sheets prepared by the Corps: _____.
- Corps navigable waters' study: _____.
- U.S. Geological Survey Hydrologic Atlas: _____.
 - USGS NHD data.
 - USGS 8 and 12 digit HUC maps.

U.S. Geological Survey map(s). Cite scale & quad name: Buckhorn Quad.
 Natural Resources Conservation Service Soil Survey. Citation: NRCS Online Soil Survey Suffolk.

¹ Districts may establish timeframes for requester to return signed PJD forms. If the requester does not respond within the established time frame, the district may presume concurrence and no additional follow up is necessary prior to finalizing an action.

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Coastal Virginia Developers, LLC		File Number: NAO-2022-01587	Date: 10-12-2023
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
X	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

<p>If you have questions regarding this decision and/or the appeal process you may contact:</p>	<p>If you only have questions regarding the appeal process you may also contact: Mr. Andrew Dangler Regulatory Appeals Review Officer U.S. Army Corps of Engineers North Atlantic Division – Fort Hamilton 301 John Warren Avenue – First Floor Brooklyn, New York 11252-6700 Mobile: (518) 487-0215</p>	
<p>RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.</p>		
<p>_____</p> <p>Signature of appellant or agent.</p>	<p>Date:</p>	<p>Telephone number:</p>

Public Records Exemptions

The following exemptions have been applied to the attached responsive records pertaining to your request:

Reason	Description	Pages
COS - PII	Please note the record contains information which is exempt from disclosure under Section § 2.2-3705.1(1) of the Code of Virginia due to the record containing information concerning identifiable individuals.	2