



**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): [October 27, 2020](#).

ORM Number: [201900585](#).

Associated JDs: [SPK-2007-01861](#) and [SPK-2018-00848](#).

Review Area Location¹: State/Territory: [CA](#). City: [Oakley](#). County/Parish/Borough: [Contra Costa](#).

Center Coordinates of Review Area: Latitude [38.012398](#). Longitude [-121.746569](#).

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).

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.



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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.

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.	acres	N/A.

Tributaries ((a)(2) waters):			
(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
N/A.	N/A.	acres	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.	acres	N/A.

Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
PW-A	0.207	acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water This wetland is a contiguous wetland that abuts, meaning touches, the San Joaquin River.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
SW-E.	0.625.	acres	(b)(1) Non-adjacent wetland. Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or This wetland meets the definition of paragraph (c)(16); however, it has formed as a result of construction and/or excavation. Historical satellite imagery

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.

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
			pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	(historicaerials.com) indicate in 1949 there was extensive upland agricultural activities. This wetland feature is in an upland. After 1957, the entire property was extensively graded and developed into an industrial chemical plant operation. This wetland SW-E was created during the construction of this development and has filled with water.
SW-C	0.197	acres	(b)(1) Non-adjacent wetland. Water-filled depression constructed/excavated in upland/non-jurisdictional water incidental to mining/construction or pit excavated in upland/non-jurisdictional water to obtain fill/sand/gravel.	This wetland meets the definition of paragraph (c)(16); however, it was formed as a result of construction, demolition and excavation. Historical satellite imagery (historicaerials.com) indicate in 1949, there was extensive upland agricultural activities. In 1957 and after, the entire property was extensively graded with the development of a chemical plant. This wetland feature was created in 1987 when a building containing a concrete wash pad sump was removed from the location and the resulting excavation was not backfilled (Corporate Remediation Group 2003). The wash pad sump was reportedly an underground structure constructed of six-inch-thick reinforced concrete measuring 4 feet square by 4 feet deep. Prior to the removal of the building and other structures, the area where Wetland SW-C is located was upland. During this time period a shallow depression approx. 27,170 sq. ft., filled with water.

III. SUPPORTING INFORMATION



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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: [November 15, 2016, RE: Chemours Oakley Site Wetland Delineation Reverification \(SPK-2007-01861\).](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A.](#)

Data sheets prepared by the Corps: .

Photographs: [Aerial: https://www.historicaerials.com/viewer, v.0.5.30, 1949-2016, Lat 38.01282, Long -121.7431, eye alt. 300 meter, retrieved October 26, 2020.](#) .

Corps site visit(s) conducted on: .

Previous Jurisdictional Determinations (AJDs or PJDs): [AJD: 2007-01861, December 23, 2008; PJD: March 20, 2019, SPK-2018-00848.](#)

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

USDA NRCS Soil Survey: .

USFWS NWI maps: .

USGS topographic maps: .

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.
Applicable/supporting case law	November 15, 2016, RE: Chemours Oakley Site Wetland Delineation Reverification (SPK-2007-01861) prepared by Parson Environmental provided and reference Corporate Remediation Group. 2003. Current Conditions Report for DuPont Oakley Site. September 12..

B. Typical year assessment(s):

C. Additional comments to support AJD: [We issued previous jurisdictional delineations: AJD: 2007-01861, December 23, 2008; and PJD: March 20, 2019, SPK-2018-00848. Applicant has requested two non-jurisdictional seasonal wetlands, and one Section 404 jurisdictional wetland for consideration. Based on historical context of the property and the development and excavation, SW-E and SW-C were located in upland farming \(upload crops\) prior to the development and construction of the chemical plant. Based on the available data, the Corps determines that both SW-E and SW-C are non-jurisdictional, and PW-A is a \(a\)\(4\) wetland that abuts an \(a\)\(1\)-\(a\)\(3\) water and is part of a larger tidally influenced wetland that is hydrologically connect to San Joaquin River – a TNW.](#)