



MINIMUM STANDARDS FOR ACCEPTANCE OF AQUATIC RESOURCES DELINEATION REPORTS

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

BUILDING STRONG®

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The U.S. Army Corps of Engineers, through its Regulatory Program, regulates certain activities in waters of the United States. Waters of the United States are defined under 33 CFR Part 328. In order for the Corps to determine the amount and extent of waters of the United States at a site, aquatic resources must be geographically delineated in accordance with established regulatory standards, guidance and protocol, such as the 1987 Corps of Engineers Wetlands Delineation Manual and most current applicable regional supplements, including the “Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region” (Version 2.0, September 2008); and “A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States” (August 2008), which is applicable to low-gradient alluvial ephemeral/intermittent channel forms in the Arid West. Electronic copies of these manuals are available at: http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/juris_info. Before making any permit decision, the Corps is responsible for conducting and/or verifying the delineation and determining which of the aquatic resources fall under federal jurisdiction.

Due to limited staffing and resources, the Corps’ Los Angeles District (‘District’) recommends permit applicants employ the services of individuals with experience in delineating aquatic resources under the Clean Water Act or Rivers and Harbors Act of 1899. Permit applicants are further encouraged early in the project planning stages to submit the delineation and engage in a pre-application consultation with the District office. Early consultation will help address potential concerns and result in a more efficient process and quicker permit decision.

The District has established minimum standards for delineation reports to ensure consistency and accuracy in the delineation of aquatic resources and to minimize potential delays. The standards are based on years of experience conducting and verifying delineations, as well as other best practices of environmental professionals. Delineations submitted to the District for verification must follow the standards, unless the District agrees they are not practical (determined on a case-by-case basis). Situations where adherence to the standards may not be practical include activities within highly modified and confined channels, activities with small impacts (permanent or temporary) to aquatic resources (under 0.10 acre), applicants with limited financial resources, and in emergency situations. If following these standards is found to be impracticable for a given project, an accurate delineation figure must be submitted, at a minimum. The District will notify the requestor if their delineation submittal is lacking sufficient information to accurately identify the geographic limits of waters of the United States, including wetlands.

Aquatic resource delineation reports submitted to the District must include the following:

1. A cover letter indicating whether you are requesting a jurisdictional determination (JD). If you are requesting a JD, you must complete, sign, and return the *Appendix 1 – Request for Corps Jurisdictional Determination (JD) sheet*, or provide a separate attachment with the information identified in Appendix 1. For preliminary jurisdictional determinations the *Preliminary Jurisdictional Determination Form* must be signed and submitted (See Appendix 2). Per Regulatory Guidance Letter (RGL) 16-01 (see <http://www.usace.army.mil/Missions/Civil-Works/Regulatory-Program-and-Permits/Guidance-Letters/>), the Corps generally does not issue a JD of any type where no JD has been requested and there are certain circumstances where a JD would not be necessary (such as authorizations by non-reporting NWRPs). In some circumstances jurisdictional questions may not arise. Unless a JD is specifically requested by the prospective permittee, the Corps will generally not conduct an approved or preliminary JD. If the prospective permittee requests a JD, the Corps will provide one. However, the prospective permittee should be aware that completion of an approved or preliminary JD associated with a permit application may lengthen the processing time for rendering a final permit decision. In addition, in order to help expedite requests for an approved JD, applicants may choose to submit a draft approved JD form as part of their delineation report submittal (see http://www.spl.usace.army.mil/Portals/17/docs/regulatory/JD/AJD/Approved_JD_Form.doc).
2. Contact information for the applicant(s), property owner(s), and agent(s).
3. If the property owner or their representatives will not accompany the Corps to the site, a signed statement from the property owner(s) allowing Corps personnel to enter the property and to collect samples during normal business hours. If the property lacks direct access by public roads (in other words, access requires passage through private property not owned by the applicant), the owner or proponent must obtain permission from the adjacent property owner(s) to provide access for Corps personnel.
4. Directions to the survey area, an address (if available) and one or more set of geographic coordinates expressed in decimal degrees.
5. A statement confirming the delineation has been conducted in accordance with the 1987 Corps of Engineers Wetlands Delineation Manual and applicable regional supplement(s). The regional supplement(s) used must be identified. For ordinary high water mark (OHWM) delineations, a statement must be included confirming the use of the OHWM field guide (see <http://www.spl.usace.army.mil/Missions/Regulatory/Jurisdictional-Determination>) or that it is not applicable.
6. A narrative describing all aquatic resources on-site and an explanation of the mapped boundaries and any complex transition zones. If the site contains resources that only meet one or two of the three wetland criteria or do not exhibit a clear OHWM, describe the rationale for their inclusion or exclusion from the delineation. Also explain if any erosional

features, upland swales, ditches and other potential aquatic features were considered but not included in the delineation.

7. Map the outside survey boundary, total extent of aquatic and proposed non-aquatic features, type of feature(s) (waters of the United States or wetland), and include the total acreage for each polygon.
8. Date(s) field work was completed.
9. A table listing all aquatic resources. The table must include the name of each aquatic resource (actual or arbitrary), its Cowardin type (see 1987 Delineation Manual), acreage, summary of OHWM/wetland presence, dominant vegetation for each, and location (latitude/longitude in decimal degrees). For linear features, the table must show both acreage and linear feet as well as channel measurements (active channel width).
10. A description of existing field conditions, including current land use, normal conditions, flood/drought conditions, irrigation practices, past or recent manipulation to the site, and characteristics considered atypical (for criteria see OHWM and wetland supplement guides). Include WETS tables or pre-site visit precipitation data as appropriate (https://www.wcc.nrcs.usda.gov/climate/wets_doc.html).
11. A discussion of the hydrology at the site, including all known surface or subsurface sources, drainage gradients, downstream connections to the nearest traditional navigable waterway or interstate water, and any influence from manmade water sources such as irrigation.
12. If remote sensing was used in the delineation, provide an explanation of how it was used and include the name, date and source of the tools and data used and copies of the maps/photographs.
13. Soil descriptions, soil map(s), soil photos, and a discussion of hydric soils (for wetland delineations only).
14. A site location map on a 7.5-minute USGS quadrangle. The map must provide the name of the USGS quadrangle, Section, Township, Range, and the latitude and longitude in decimal degree format.
15. For sites with 3 or more separate aquatic features a completed copy of the *ORM Bulk Upload Aquatic Resources* or *Consolidated* Excel spreadsheet must be submitted. The current versions of the spreadsheets can be found at the following website: <http://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process/>
16. Map(s) of all delineated aquatic resources in accordance with the *Final Map and Drawing Standards for the South Pacific Division Regulatory Program*, available at: <http://www.spd.usace.army.mil/Missions/Regulatory/Public-Notices-and-References/Article/651327/updated-map-and-drawing-standards/>.

17. Ground photographs showing representative aquatic resource sites (or lack of), as well as an accompanying map of photo-points and table of photographic information (see Final Map and Drawing Standards for the South Pacific Division Regulatory Program item no. 8 a-c).
18. Completed data forms including all essential information to make a jurisdictional determination [e.g. *2006 Wetland Determination Data Form -- Arid West Supplement*; *2010 Arid West Ephemeral and Intermittent Streams OHWM Datasheet*].
19. A description of the methods used to survey the aquatic resource boundaries. If GPS data is used, the level of accuracy must be included. Ideally, the GPS equipment should have the capability of sub-meter (≤ 1 meter) level horizontal accuracy.
20. Digital data for the site, aquatic resource boundaries, and data point locations must be provided in a geographic information system (GIS) format, preferably either ESRI shapefiles or Geodatabase format, but GoogleEarth KMZ or KML files may be acceptable non-complex projects. Each GIS data file must be accompanied by a metadata file containing the appropriate geographic coordinate system, projection, datum, and labeling description. If GIS data is unavailable or otherwise cannot be produced and the Corps determines a site visit is necessary, the aquatic resource boundaries should be physically marked with numbered flags or stakes to facilitate verification by the Corps.

Often, additional information can expedite the verification of a delineation. Particularly helpful data includes site specific topographic maps, NRCS Soil Survey Maps, National Wetland Inventory (NWI) maps, Light Detection and Ranging (LIDAR) maps, satellite imagery, historically time series aerial and ground photographs, and floodplain maps.

More information regarding aquatic resource delineations, including reference materials, the *Aquatic Resources Excel* spreadsheet, and the suggested format for the aquatic resources delineation report can be found on our website at:

<http://www.spl.usace.army.mil/Missions/Regulatory/Permit-Process/>

Appendix 1 - REQUEST FOR CORPS JURISDICTIONAL DETERMINATION (JD)

To: District Name Here

- I am requesting a JD on property located at: _____
(Street Address)
City/Township/Parish: _____ County: _____ State: _____
Acreage of Parcel/Review Area for JD: _____
Section: _____ Township: _____ Range: _____
Latitude (decimal degrees): _____ Longitude (decimal degrees): _____
(For linear projects, please include the center point of the proposed alignment.)
- Please attach a survey/plat map and vicinity map identifying location and review area for the JD.
- I currently own this property. I plan to purchase this property.
 I am an agent/consultant acting on behalf of the requestor.
 Other (please explain): _____
- Reason for request: (check as many as applicable)
 I intend to construct/develop a project or perform activities on this parcel which would be designed to avoid all aquatic resources.
 I intend to construct/develop a project or perform activities on this parcel which would be designed to avoid all jurisdictional aquatic resources under Corps authority.
 I intend to construct/develop a project or perform activities on this parcel which may require authorization from the Corps, and the JD would be used to avoid and minimize impacts to jurisdictional aquatic resources and as an initial step in a future permitting process.
 I intend to construct/develop a project or perform activities on this parcel which may require authorization from the Corps; this request is accompanied by my permit application and the JD is to be used in the permitting process.
 I intend to construct/develop a project or perform activities in a navigable water of the U.S. which is included on the district Section 10 list and/or is subject to the ebb and flow of the tide.
 A Corps JD is required in order to obtain my local/state authorization.
 I intend to contest jurisdiction over a particular aquatic resource and request the Corps confirm that jurisdiction does/does not exist over the aquatic resource on the parcel.
 I believe that the site may be comprised entirely of dry land.
 Other: _____
- Type of determination being requested:
 I am requesting an approved JD.
 I am requesting a preliminary JD.
 I am requesting a "no permit required" letter as I believe my proposed activity is not regulated.
 I am unclear as to which JD I would like to request and require additional information to inform my decision.

By signing below, you are indicating that you have the authority, or are acting as the duly authorized agent of a person or entity with such authority, to and do hereby grant Corps personnel right of entry to legally access the site if needed to perform the JD. Your signature shall be an affirmation that you possess the requisite property rights to request a JD on the subject property.

*Signature: _____ Date: _____

- Typed or printed name: _____
Company name: _____
Address: _____

Daytime phone no.: _____
Email address: _____

***Authorities:** Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research, and Sanctuaries Act, Section 103, 33 USC 1413; Regulatory Program of the U.S. Army Corps of Engineers; Final Rule for 33 CFR Parts 320-332.

Principal Purpose: The information that you provide will be used in evaluating your request to determine whether there are any aquatic resources within the project area subject to federal jurisdiction under the regulatory authorities referenced above.

Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies, and the public, and may be made available as part of a public notice as required by federal law. Your name and property location where federal jurisdiction is to be determined will be included in the approved jurisdictional determination (AJD), which will be made available to the public on the District's website and on the Headquarters USACE website.

Disclosure: Submission of requested information is voluntary; however, if information is not provided, the request for an AJD cannot be evaluated nor can an AJD be issued.

- 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.
- 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: _____.
- 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: _____.
- Natural Resources Conservation Service Soil Survey. Citation: _____.
- National wetlands inventory map(s). Cite name: _____.
- State/local wetland inventory map(s): _____.
- FEMA/FIRM maps: _____.
- 100-year Floodplain Elevation is: _____. (National Geodetic Vertical Datum of 1929)
- Photographs: Aerial (Name & Date): _____.
or Other (Name & Date): _____.
- Previous determination(s). File no. and date of response letter: _____.
- Other information (please specify): _____.

IMPORTANT NOTE: The information recorded on this form has not necessarily been verified by the Corps and should not be relied upon for later jurisdictional determinations.

Signature and date of
Regulatory staff member
completing PJD

Signature and date of
person requesting PJD
(REQUIRED, unless obtaining
the signature is impracticable)¹

¹ Districts may establish timeframes for requestor to return signed PJD forms. If the requestor 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.