



**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): 6/10/2021

ORM Number: LRH-2020-925-NEW-UNT Piney Creek

Associated JDs: No

Review Area Location¹: State/Territory: West Virginia City: Beaver County/Parish/Borough: Raleigh

Center Coordinates of Review Area: Latitude 37.785010 Longitude -81.132554

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
N/A.	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.	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.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
ASE_Stream 1	664	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 1 is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 1 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 664 linear feet (lf) of ASE_Stream 1 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 5	2,728	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 5 is an intermittent, direct tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 5 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 2.728 linear feet (lf) of ASE_Stream 5 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 6 INT	229	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 6 INT is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 6 INT contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 229 linear feet (lf) of ASE_Stream 6 INT within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 7	535	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 7 is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 7 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 535 linear feet (lf) of ASE_Stream 7 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 9	392	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 9 is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 9 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 392 linear feet (lf) of



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				ASE_Stream 9 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 10	1,778	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 10 is an intermittent, direct tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 10 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 1,778 linear feet (lf) of ASE_Stream 10 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 11	102	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 11 is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 11 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 102 linear feet (lf) of ASE_Stream 11 within the AOI is conveyed off-site towards Piney Creek.
ASE_Stream 12	715	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 12 is an intermittent, indirect tributary to Piney Creek, an (a)(2) water and direct tributary to the New River, an (a)(1) TNW, at a location outside of the area of interested (AOI). Through this path, ASE_Stream 12 contributes surface water flow indirectly to the New River, an (a)(1) TNW, in a typical year (reference Section III B of this AJD form). Approximately 715 linear feet (lf) of ASE_Stream 12 within the AOI is conveyed off-site towards Piney Creek.

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.



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Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination	
ASE_Wetland 2 PEM	0.137 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 2 PEM directly abuts ASE_Stream 07, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 2 PEM directly abuts a water identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 2 PFO	0.097 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 2 PFO directly abuts ASE_Stream 07, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 2 PFO directly abuts a water identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 3 PEM	0.908 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 3 complex directly abuts ASE_Stream 05, intermittent direct tributary to Piney Creek an (a)(2) water, and ASE_Stream 9, intermittent indirect tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 3 complex directly abuts waters identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 3 PSS	0.336 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 3 complex directly abuts ASE_Stream 05, intermittent direct tributary to Piney Creek an (a)(2) water, and ASE_Stream 9, intermittent indirect tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 3 complex directly abuts waters identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 3 PFO	0.141 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 3 complex directly abuts ASE_Stream 05, intermittent direct tributary to Piney Creek an (a)(2) water, and ASE_Stream 9, intermittent indirect tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 3 complex directly abuts waters identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 4	0.070 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 4 directly abuts ASE_Stream 05, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 4 directly abuts a water identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 9	0.292 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 09 directly abuts ASE_Stream 10, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 09 directly abuts a water identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 10	0.047 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 10 directly abuts ASE_Stream 10, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 10 directly abuts a water identified in 33 CFR 328.3(a)(2).	
ASE_Wetland 11	0.013 acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 11 directly abuts ASE_Stream 10, an intermittent direct tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 11 directly abuts a water identified in 33 CFR 328.3(a)(2).	



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ASE_Wetland 13 PEM	0.054	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 13 PEM directly abuts ASE_Stream 12, an intermittent indirect tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 13 PEM directly abuts a water identified in 33 CFR 328.3(a)(2).
ASE_Wetland 13 PFO	0.087	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	ASE_Wetland 13 PFO directly abuts ASE_Stream 12, an intermittent indirect tributary to Piney Creek an (a)(2) water, as described above. ASE_Wetland 13 PFO directly abuts a water identified in 33 CFR 328.3(a)(2).

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
ASE_Ditch	272	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).	ASE_Ditch 01 was constructed in uplands to control water run off. Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 2	96	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ASE_Stream 2 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 3	74	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool.	ASE_Stream 3 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 4	108	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year.	ASE_Stream 4 is an intermittent stream that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. The feature follows a jeep trail and dissipates into uplands. Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 6 EPH	458	linear feet	(b)(3) Ephemeral feature, including	ASE_Stream 6 EPH is an ephemeral stream and meets the definition of “ephemeral” in paragraph

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
		an ephemeral stream, swale, gully, rill, or pool.	(c)(3). Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 8	47	linear feet	(b)(3) Ephemeral feature, including an ephemeral stream, swale, gully, rill, or pool. ASE_Stream 8 is an ephemeral stream and meets the definition of “ephemeral” in paragraph (c)(3). Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 13	731	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. ASE_Stream 13 is an intermittent stream that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. This feature goes subsurface within the jurisdictional determination boundary and does not appear to resurface. No resurface location was discovered. Reference Section III B of this AJD form for typical year assessments.
ASE_Stream 14	174	linear feet	(b)(1) Surface water channel that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. ASE_Stream 14 is an intermittent stream that does not contribute surface water flow directly or indirectly to an (a)(1) water in a typical year. This feature dissipates into ASE_Wetland 08 a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 1 PEM	0.147	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 1 PEM is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 1 PSS	0.143	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 1 PSS is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 5	0.185	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 5 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 6	0.047	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 6 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 7	0.030	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 7 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 8 PEM	0.301	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 8 PEM is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 8 PSS	0.428	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 8 PSS is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.



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Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
ASE_Wetland 8 PFO	0.10	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 8 PFO is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 12	0.040	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 12 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 14	0.053	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 14 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 15	0.102	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 15 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.
ASE_Wetland 16	0.031	acre(s)	(b)(1) Non-adjacent wetland. ASE_Wetland 16 is a physically remote and isolated wetland. Reference Section III B of this AJD form for typical year assessments.

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: [Wetland Delineation and Stream Identification Report for the Raleigh County Memorial Airport, Raleigh County, West Virginia dated 14 December 2020](#)
This information **Select.** sufficient for purposes of this AJD.
Rationale: [N/A](#)
- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\)](#).
- Photographs: [Aerial and Other: Appendix B – Raleigh County Memorial Airport Potentially Jurisdictional Water and Data Points dated November 30 and December 1-3 2020 and Figure 2 Potentially Jurisdictional Features Raleigh County Memorial Airport included in the report titled Wetland Delineation and Stream Identification Report for the Raleigh County Memorial Airport, Raleigh County, West Virginia dated 14 December 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: [Custom Soil Resource Report included in the report titled Wetland Delineation and Stream Identification Report for the Raleigh County Memorial Airport, Raleigh County, West Virginia dated 14 December 2020.](#)
- USFWS NWI maps: [Regulatory JD Viewer](#)
- USGS topographic maps: [WV Prince and WV Buckley](#)

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.



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Data Source (select)	Name and/or date and other relevant information
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): A typical year occurs over a rolling thirty year period and includes the analysis of precipitation and other climatic variables to establish a normal period range (seasonally or annually) for a specific geographic region where the aquatic resource occurs. Four point-in-time data sources, 30 November 2020, 1 December 2020, 2 December 2020, and 3 December 2020, with a corresponding APT report, were included in the evaluation for the excluded ephemeral streams, excluded intermittent streams that lacked connectivity to waters of the US, excluded isolated wetlands, and excluded ephemeral ditch listed in Section II D (ASE_Ditch, ASE_Stream 2, ASE_Stream 3, ASE_Stream 4, ASE_Stream 6 EPH, ASE_Stream 8, ASE_Stream 13, ASE_Stream 14, ASE_Wetland 1 PEM, ASE_Wetland 1 PSS, ASE_Wetland 5, ASE_Wetland 6, ASE_Wetland 7, ASE_Wetland 8 PEM, ASE_Wetland 8 PSS, ASE_Wetland 8 PFO, ASE_Wetland 12, ASE_Wetland 14, ASE_Wetland 15, and ASE_Wetland 16), and jurisdictional wetlands and streams listed in Section II C (ASE_Stream 1 ASE_Stream 5, ASE_Stream 6 INT, ASE_Stream 7, ASE_Stream 9, ASE_Stream 10, ASE_Stream 11, ASE_Stream 12, ASE_Wetland 2 PEM, ASE_Wetland 2 PFO, ASE_Wetland 3 PEM, ASE_Wetland 3 PSS, ASE_Wetland 3 PFO, ASE_Wetland 4, ASE_Wetland 9, ASE_Wetland 10, ASE_Wetland 11, ASE_Wetland 13 PEM, and ASE_Wetland 13 PFO). According to the APT report for 30 November 2020, drier than normal conditions were observed during the wet season with a PSDI Value of 2.39 (moderate wetness) and an ARC score of 9. According to the APT report of 1 December 2020, drier than normal conditions were observed during the wet season with a PSDI Value of 2.5 (moderate wetness) and an ARC score of 9. According to the APT report of 2 December 2020, drier than normal conditions were observed during the wet season with a PSDI Value of 2.5 (moderate wetness) and an ARC score of 8. According to the APT report of 3 December 2020, drier than normal conditions were observed during the wet season with a PSDI Value of 2.5 (moderate wetness) and an ARC score of 8. On 30 November 2020 and 1-3 December 2020, during drier than normal conditions of the wet season, little to no flow was observed, supporting the fact that ASE_Stream 2, ASE_Stream 3, ASE_Stream 6 EPH, and ASE_Stream 8 do not meet the flow requirements of a jurisdictional tributary. It has been determined that the streams, ASE_Stream 2, ASE_Stream 3, ASE_Stream 6 EPH, and ASE_Stream 8, listed in Section II D, above, exhibit ephemeral flow, and are not waters of the United States per 33 CFR 328.3(b)(3), and are not subject to regulation under Section 404. Furthermore, ASE_Stream 4, ASE Stream 13, and ASE_Stream 14 do not contribute surface water flow to an (a)(1) water in a typical year. It has been determined that ASE_Stream 4, ASE Stream 13, and ASE_Stream 14 listed in Section II D, above, are not waters of the United States per 33 CFR 328.3(b)(1), and are not subject to the regulation under Section 404. Additionally, ASE_Ditch, listed in Section II D, above, demonstrate it is a manmade ditch constructed to control water runoff. It has been determined that ASE_Ditch listed in Section II D, above, is a ditch constructed to control the water runoff and is not a wates of the United States per 33 CFR 328.3(b)(5), and is not subject to regulation under Section 404. Moreover, it has been determined that ASE_Wetland 1 PEM, ASE_Wetland 1 PSS, ASE_Wetland 5, ASE_Wetland 6, ASE_Wetland 7, ASE_Wetland 8 PEM, ASE_Wetland 8 PSS, ASE_Wetland 8 PFO, ASE_Wetland 12, ASE_Wetland 14, ASE_Wetland 15, and ASE_Wetland 16 listed in Section II D, above, do not meet the definition of adjacent wetlands (33 CFR 328.3(c)(1)(i)-(iv)), are not considered a water of the United States per 33 CFR 328.3(b)(1), and are not subject to regulation under Section 404.



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On 30 November 2020 and 1-3 December 2020, during drier than normal conditions of the wet season, intermittent flow was observed, supporting the fact that ASE_Stream 1, ASE_Stream 5, ASE_Stream 6 INT, ASE_Stream 7, ASE_Stream 9, ASE_Stream 10, ASE_Stream 11, and ASE_Stream 12 meets the flow requirements of a jurisdictional tributary. It has been determined that the streams, ASE_Stream 1, ASE_Stream 5, ASE_Stream 6 INT, ASE_Stream 7, ASE_Stream 9, ASE_Stream 10, ASE_Stream 11, and ASE_Stream 12, listed in Section II C, above, exhibit intermittent flow, and are waters of the United States per 33 CFR 328.3(a)(2), and is subject to regulation under Section 404. Additionally, it has been determined that ASE_Wetland 2 PEM, ASE_Wetland 2 PFO, ASE_Wetland 3 PEM, ASE_Wetland 3 PSS, ASE_Wetland 3 PFO, ASE_Wetland 4, ASE_Wetland 9, ASE_Wetland 10, ASE_Wetland 11, ASE_Wetland 13 PEM, and ASE_Wetland 13 PFO listed in Section II C, above, abuts a water identified in 33 CFR 328.3(a)(2), are waters of the United States per 33 CFR 328.3(a)(4), and are subject to the regulation under Section 404.

- C. Additional comments to support AJD:** According to Appendix C included in the report titled Wetland Delineation and Stream Identification Report for the Raleigh County Memorial Airport, Raleigh County, West Virginia dated 14 December 2020, the project area is outside of the FEMA flood hazard area.