



# **Regulatory Program**

### INTERIM APPROVED JURISDICTIONAL DETERMINATION FORM U.S. Army Corps of Engineers

This form should be completed by following the instructions provided in the Interim Approved Jurisdictional Determination Form User Manual.

### SECTION I: BACKGROUND INFORMATION

A. COMPLETION DATE FOR APPROVED JURISDICTIONAL DETERMINATION (AJD): July 2, 2019

### B. ORM NUMBER IN APPROPRIATE FORMAT (e.g., HQ-2015-00001-SMJ): NAE-2018-00803

## C. PROJECT LOCATION AND BACKGROUND INFORMATION:

State:Massachusetts County/parish/borough: Barnstable

City: Sandwich

Center coordinates of site (lat/long in degree decimal format): Lat. 41.685936, Long. -70.485099.

Map(s)/diagram(s) of review area (including map identifying single point of entry (SPOE) watershed and/or potential jurisdictional areas where applicable) is/are: 🛛 attached 🗌 in report/map titled

Other sites (e.g., offsite mitigation sites, disposal sites, etc.) are associated with this action and are recorded on a different jurisdictional determination (JD) form. List JD form ID numbers (e.g., HQ-2015-00001-SMJ-1):

## D. REVIEW PERFORMED FOR SITE EVALUATION:

Office (Desk) Determination Only. Date: June 28, 2019.

Office (Desk) and Field Determination. Office/Desk Dates:

Field Date(s):

## SECTION II: DATA SOURCES

Check all that were used to aid in the determination and attach data/maps to this AJD form and/or references/citations in the administrative record, as appropriate.

Maps, plans, plots or plat submitted by or on behalf of the applicant/consultant. Title/Date: PLANS ACCOMPANYING PETITION MACLEAN, EDWIN L ET AL JANET E RICHARDS SEASONAL DOCKS & BEACH MAINTENANCE PETERS POND, SANDWICH, MA JANUARY 2018.

Data sheets prepared/submitted by or on behalf of the applicant/consultant.

Data sheets/delineation report are sufficient for purposes of AJD form. Title/Date:

Data sheets/delineation report are not sufficient for purposes of AJD form. Summarize rationale and include information on revised data sheets/delineation report that this AJD form has relied upon:

Revised Title/Date:

Data sheets prepared by the Corps. Title/Date:

Corps navigable waters study. Title/Date:

CorpsMap ORM map layers. Title/Date:

USGS Hydrologic Atlas. Title/Date:

USGS, NHD, or WBD data/maps. Title/Date:

USGS 8, 10 and/or 12 digit HUC maps. HUC number:

USGS maps. Scale & quad name and date: 1:24,000, Sandwich Quadrangle, 1972.

USDA NRCS Soil Survey. Citation:

USFWS National Wetlands Inventory maps. Citation: Sandwich, MA.

State/Local wetland inventory maps. Citation:

- FEMA/FIRM maps. Citation:
- Photographs: 🛛 Aerial. Citation: Google Earth 2018. or 🗌 Other. Citation:
- LiDAR data/maps. Citation:
- Previous JDs. File no. and date of JD letter:

Applicable/supporting case law:

Applicable/supporting scientific literature:

Other information (please specify): Massachusetts Division of Fisheries & Wildlife map of Peters Pond and supporting information sheet, January 2018

Dunroamin Trailer Park website (https://dunroamintrailerpark.com)

Peters Pond RV Resort website (https://sunrvresorts.com/resorts/new-england/massachusetts/peters-pond).

### SECTION III: SUMMARY OF FINDINGS

Complete ORM "Aquatic Resource Upload Sheet" or Export and Print the Aquatic Resource Water Droplet Screen from ORM for All Waters and Features, Regardless of Jurisdictional Status – Required

### A. RIVERS AND HARBORS ACT (RHA) SECTION 10 DETERMINATION OF JURISDICTION:

" "navigable waters of the U.S." within RHA jurisdiction (as defined by 33 CFR part 329) in the review area.

### Complete Table 1 - Required

*NOTE:* If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Section 10 navigable waters list, DO NOT USE THIS FORM TO MAKE THE DETERMINATION. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Section 10 RHA navigability determination.

Β.	<b>CLEAN WATE</b>	ER ACT	(CWA)	SECTIC	DN 404 DE	TERMINATIO	N OF	JURISDICTION:	"waters of the	U.S." wit	thin
CV	VA jurisdiction	(as defir	ed by	33 CFR	part 328.3)	) in the review	area.	Check all that a	oply.		

(a)(1): All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide. (Traditional Navigable Waters (TNWs))

### • Complete Table 1 - Required

☐ This AJD includes a case-specific (a)(1) TNW (Section 404 navigable-in-fact) determination on a water that has not previously been designated as such. Documentation required for this case-specific (a)(1) TNW determination is attached.

(a)(2): All interstate waters, including interstate wetlands.

## Complete Table 2 - Required

(a)(3): The territorial seas.

### Complete Table 3 - Required

(a)(4): All impoundments of waters otherwise identified as waters of the U.S. under 33 CFR part 328.3.

### Complete Table 4 - Required

(a)(5): All tributaries, as defined in 33 CFR part 328.3, of waters identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

### Complete Table 5 - Required

(a)(6): All waters adjacent to a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3, in	cluding
wetlands, ponds, lakes, oxbows, impoundments, and similar waters.	

### Complete Table 6 - Required

Bordering/Contiguous.

Neighboring:

- (c)(2)(i): All waters located within 100 feet of the ordinary high water mark (OHWM) of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3.
- (c)(2)(ii): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 and not more than 1,500 feet of the OHWM of such water.
- (c)(2)(iii): All waters located within 1,500 feet of the high tide line of a water identified in paragraphs (a)(1) or (a)(3) of 33 CFR part 328.3, and all waters within 1,500 feet of the OHWM of the Great Lakes.

(a)(7): All waters identified in 33 CFR 328.3(a)(7)(i)-(v) where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

Complete Table 7 for the significant nexus determination. Attach a map delineating the SPOE watershed boundary with (a)(7) waters identified in the similarly situated analysis. - Required
 Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent

and require a case-specific significant nexus determination.

(a)(8): All waters located within the 100-year floodplain of a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3 not covered by (c)(2)(ii) above and all waters located within 4,000 feet of the high tide line or OHWM of a water identified in paragraphs (a)(1)-(a)(5) of 33 CFR part 328.3 where they are determined on a case-specific basis to have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

• Complete Table 8 for the significant nexus determination.	Attach a map delineating the SPOE
watershed boundary with (a)(8) waters identified in the sim	nilarly situated analysis Required

☐ Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

### C. NON-WATERS OF THE U.S. FINDINGS:

### Check all that apply.

The review area is comprised entirely of dry land.

Potential-(a)(7) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

# • Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(7) waters identified in the similarly situated analysis. - Required

Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

Potential-(a)(8) Waters: Waters that DO NOT have a significant nexus to a water identified in paragraphs (a)(1)-(a)(3) of 33 CFR part 328.3.

• Complete Table 9 and attach a map delineating the SPOE watershed boundary with potential (a)(8) waters identified in the similarly situated analysis. - Required

 $\Box$  Includes water(s) that are geographically and physically adjacent per (a)(6), but are being used for established, normal farming, silviculture, and ranching activities (33 USC Section 1344(f)(1)) and therefore are not adjacent and require a case-specific significant nexus determination.

Excluded Waters (Non-Waters of U.S.), even where they otherwise meet the terms of paragraphs (a)(4)-(a)(8):

### Complete Table 10 - Required

(b)(1): Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA.

(b)(2): Prior converted cropland.

 $\Box$  (b)(3)(i): Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.

(b)(3)(ii): Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.

☐ (b)(3)(iii): Ditches that do not flow, either directly or through another water, into a water identified in paragraphs (a)(1)-(a)(3).

(b)(4)(i): Artificially irrigated	d areas that would revert to dr	y land should application	of water to that area cease.
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(b)(4)(ii): Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds,

irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds.

- (b)(4)(iii): Artificial reflecting pools or swimming pools created in dry land.<sup>1</sup>
- (b)(4)(iv): Small ornamental waters created in dry land.<sup>1</sup>

(b)(4)(v): Water-filled depressions created in dry land incidental to mining or construction a	ctivity, including
pits excavated for obtaining fill, sand, or gravel that fill with water.	

$\Box$	(b)(4)(vi): Erosional features, including gullies, rills, and other ephemeral features that do not meet the
	definition of tributary, non-wetland swales, and lawfully constructed grassed waterways. <sup>1</sup>

(b)(4)(vii): Puddles.<sup>1</sup>

(b)(5): Groundwater, including groundwater drained through subsurface drainage systems.<sup>1</sup>

- (b)(6): Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.<sup>1</sup>
- (b)(7): Wastewater recycling structures created in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

#### Other non-jurisdictional waters/features within review area that do not meet the definitions in 33 CFR 328.3 of (a)(1)-(a)(8) waters and are not excluded waters identified in (b)(1)-(b)(7).

• Complete Table 11 - Required.

D. ADDITIONAL COMMENTS TO SUPPORT AJD: See Table 1 below.

<sup>&</sup>lt;sup>1</sup> In many cases these excluded features will not be specifically identified on the AJD form, unless specifically requested. Corps Districts may, in case-by-case instances, choose to identify some or all of these features within the review area. Page 3 of 7 Version: October 1, 2015



## Jurisdictional Waters of the U.S.

## Table 1. (a)(1) Traditional Navigable Waters

(a)(1) Waters Name	(a)(1) Criteria	Rationale to Support (a)(1) Designation
		Include High Tide Line or Ordinary High Water Mark indicators, when
		applicable.
Peters Pond	Waters have historically, are currently, and/or are susceptible for commercial navigation, including commercial waterborne recreation.	<ol> <li>The physical characteristics of the waterbody, including its depth and size, indicate it has the capacity to be navigated by watercraft. Peters Pond is a 136-acre kettle lake with a maximum depth of 53 feet and an average depth of 25 feet.</li> <li>The lake is currently used for waterborne recreational activities, including recreational boating and fishing. Aerial photographs show numerous (approximately 25) docks accessing the pond. Public access is provided by the state Division of Fisheries and Wildlife by a paved boat ramp off of John Ewer Road on the eastern side of the pond. The Town of Sandwich also operates a rentable function hall (Oakcrest Cove) on the north side of the pond with an associated boat ramp. Private businesses along the eastern shore, including a trailer park and RV resort, list access to boating and fishing amongst their available activities. The pond produces trout, bass, and other</li> </ol>
		fish, with large sections of the shoreline accessible to wading anglers.
	*	3. Due to its location on Cape Cod, a popular tourist destination, and proximity to major roads, Peters Pond is readily accessible to out-of-state travelers. The pond is approximately 52 miles from the nearest state border with Rhode Island, and 4.4 miles from U.S. Route 6, also known as the Mid-Cape Highway, which is the main thoroughfare on Cape Cod. The above-mentioned trailer park and RV resort offer a variety of potential accomodations to out-of-state travelers, including trailer hookups, RV sites, cottages, and camp sites.
		Conclusion: The above factors demonstrate that Peters Pond is susceptible to use and likely currently used in interstate or foreign commerce in the form of commercial waterborne recreation, including boating and fishing. The Corps therefore has jurisdiction over this water body as a Tradional Navigable Water (TNW) under section 404 of the Clean Water Act pursuant to 33 CFR 328.3(a)(1).

## Table 2. (a)(2) Interstate Waters

(a)(2) Waters Name	Rationale to Support (a)(2) Designation	
N/A	N/A	

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## Table 3. (a)(3) Territorial Seas

(a)(3) Waters Name	Rationale to Support (a)(3) Designation	
N/A	N/A	

## Table 4. (a)(4) Impoundments

(a)(4) Waters Name	Rationale to Support (a)(4) Designation
N/A	N/A
N/A	N/A

## Table 5. (a)(5)Tributaries

(a)(5) Waters Name	Flow Regime	(a)(1)-(a)(3) Water Name to which this (a)(5) Tributary Flows	Tributary Breaks	Rationale for (a)(5) Designation and Additional Discussion. Identify flowpath to (a)(1)-(a)(3) water or attach map identifying the flowpath; explain any breaks or flow through excluded/non-jurisdictional features, etc.
N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A

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N/A	Choose an item.	N/A	Choose an item.	N/A
N/A	Choose an item.	N/A	Choose an item.	N/A

## Table 6. (a)(6) Adjacent Waters

a)(6) Waters Name (a)(1)-(a)(5) Water Ide Name to which this we Water is Adjacent at		Rationale for (a)(6) Designation and Additional Discussion. dentify the type of water and how the limits of jurisdiction were established (e.g., wetland, 87 Manual/Regional Supplement); explain how the 100-year floodplain and/or the distance threshold was determined; whether this water extends beyond a threshold; explain if the water is part of a mosaic, etc.					
N/A	N/A	N/A					
N/A	N/A .	N/A					
N/A	N/A	N/A					
N/A	N/A	N/A					

# Table 7. (a)(7) Waters

SPOE Name	(a)(7) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; discuss whether any similarly situated waters were present and aggregated for SND; discuss data, provide analysis, and summarize how the waters have more than speculative or insubstantial effect on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A N/A		N/A	N/A
N/A	N/A	N/A	N/A

## Table 8. (a)(8) Waters

SPOE Name	(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water has a Significant Nexus	Significant Nexus Determination Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to subject water and aggregated for SND; discuss data, provide analysis, and then summarize how the waters have more than speculative or insubstantial effect the on the physical, chemical, or biological integrity of the (a)(1)-(a)(3) water, etc.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

## Non-Jurisdictional Waters

## Table 9. Non-Waters/No Significant Nexus

SPOE Name	Non-(a)(7)/(a)(8) Waters Name	(a)(1)-(a)(3) Water Name to which this Water DOES NOT have a Significant Nexus	Basis for Determination that the Functions DO NOT Contribute Significantly to the Chemical, Physical, or Biological Integrity of the $(a)(1)$ - $(a)(3)$ Water. Identify SPOE watershed; explain how 100-yr floodplain and/or the distance threshold was determined; discuss whether waters were determined to be similarly situated to the subject water; discuss data, provide analysis, and summarize how the waters did not have more than a speculative or insubstantial effect on the physical, chemical, or biological integrity of the $(a)(1)$ - $(a)(3)$ water.
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

## Table 10. Non-Waters/Excluded Waters and Features

Paragraph (b) Excluded Feature/Water Name	Rationale for Paragraph (b) Excluded Feature/Water and Additional Discussion.					
N/A	N/A					
N/A	N/A					

## Table 11. Non-Waters/Other

Other Non-Waters of U.S. Feature/Water Name	Rationale for Non-Waters of U.S. Feature/Water and Additional Discussion.
N/A	N/A

Waters_Name State Cowardin_Code HGM_Code Meas_Type Amount Units Waters_Type Latitude Longitude Local_Waterway	Peters Pond	MASSACHUSETTS	L1UB		Area		36 ACRE	A1	41 68603	223 -70 485142	38 Peters Pond
	Waters_Name	State	Cowardin_Code	HGM_Code	Meas_Type	Amount	Units	Waters_Type	Latitude	Longitude	Local_Waterway
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