

Obtaining a Jurisdictional Determination (25 JUL 2005)

General Information

The U.S. Army Corps of Engineers (Corps) has regulatory authority over Navigable Waters of the United States pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Waters of the United States, including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). It is recommended that you contact the Corps and have a jurisdictional determination and/or delineation (JD) completed on any property prior to undertaking work such as filling, excavating or land clearing. The Corps or the U.S. Environmental Protection Agency must approve any JD in order for it to be considered valid for CWA Section 404 purposes. No other Federal, State or local agency or private entity has this authority.

Most JDs require collection of information onsite. Corps project managers may not be able to accomplish your delineation in a timely manner due to present workload. You may wish to hire an environmental consultant to expedite the process. A consultant will typically gather the necessary information and submit it to the Corps for final approval. The Corps does not maintain a list of consultants nor recommend or endorse any particular consulting firm. Names and contact information can be obtained from the local yellow pages, chambers of commerce or similar sources.

Prospective land purchasers who suspect there may be jurisdictional waters on the property should ask the current owner or agent if a JD has been accomplished for the property. An approved JD will be documented in a letter from the Corps and/or on a plat that clearly identifies the jurisdictional area and contains a verification statement (see item 11 under "Submitting a Plat for Corps Verification" below) dated and signed by a Corps Regulatory Official.

Obtaining a Jurisdictional Determination from the Corps

You may obtain a jurisdictional determination for your property by contacting the local Corps Regulatory field office. We recommend you have the following information available when you contact the Corps project manager:

1. Name, address and phone number of property owner. If you do not currently own the property, you must provide a letter from the current property owner, authorizing you and the Corps to go on the property for the purpose of making the jurisdictional determination.
2. Location and description of the property including basic property conditions (wooded, open field, ditch locations, etc.) and approximate acreages.
3. A copy of a survey plat, if available, depicting all property boundaries.

4. All property lines and property corners should be easily identifiable in the field.

Submitting JD's for Corps Approval

Individuals, including consultants, submitting jurisdictional determinations or delineations depicting the actual boundaries of jurisdiction must supply the following information to the Corps project manager:

1. Agent authorization letter. Any person presenting information for verification on property which they do not own, must provide the Corps with a letter from the property owner authorizing that person to act on the property owners behalf for purposes of obtaining the jurisdictional determination.
2. Survey plat (or copy) accurately depicting property lines.
3. A sketch or survey accurately depicting the limits of Corps jurisdiction. It is strongly recommended that a licensed professional surveyor survey the delineation and present it on a plat of the property.
4. If requesting verification of a jurisdictional wetland determination/delineation, you must supply data sheets documenting the presence or absence of wetland indicators identified in the 1987 USACE Wetland Delineation Manual.

Submitting a Plat for Corps Verification

All surveyed jurisdictional delineations submitted to the Corps for confirmation should meet the following minimum requirements. Any plats submitted for approval that do not meet these requirements will be returned unsigned.

1. You must submit one legible copy on 11 x 17 inch or smaller paper (matchlines are acceptable for larger tracts) to be retained by the Corps for their records.
2. Distances and bearings or coordinates of all points must be printed legibly along side the lines or arranged in a table on the map.
3. All survey lines should be referenced to a known point (e.g. property corner, USGS monument).
4. North Arrow should be accurately displayed on all plats

5. The total area of wetlands depicted (square feet or acreage), or linear measurements allowing the area to be calculated must be shown.
6. Location of data points must be shown.
7. We recommend that all isolated waters not subject to Corps jurisdiction be shown on the survey and be identified as isolated. Determination of isolation must be approved by the Corps.
8. All pipes, culverts, or other conveyances that transport streams or other jurisdictional waters must be surveyed and identified on the plat.
9. All copies of plats should be sealed and signed by a licensed surveyor.
10. Delineation surveys prepared using Global Positioning Systems (GPS) must meet the above criteria as well as the following:
 - a. The survey must be at sub-meter accuracy at each survey point
 - b. One or more property corners and/or monuments shall be located by the GPS survey and compared to the existing metes and bounds property survey as a measure of accuracy.
 - c. The plat should be accompanied by a brief description of the GPS equipment used.
11. One of the following certification paragraphs and signature blocks must be printed on all pages of all copies of the survey. Use the paragraph that best fits the circumstances.

a. When The Entire Actual Jurisdictional Boundary Is Depicted:

"This certifies that this copy of this plat accurately depicts the boundary of the jurisdiction of Section 404 of the Clean Water Act as determined by the undersigned on this date. Unless there is a change in the law or our published regulations, this determination of Section 404 jurisdiction may be relied upon for a period not to exceed five years from this date. This determination was made utilizing the 1987 Corps of Engineers Wetlands Delineation Manual."

Regulatory Official _____
 Title _____
 Date _____
 USACE Action ID _____

b. When Only A Portion Of The Jurisdictional Boundary Is Depicted:

"This certifies that this copy of this plat accurately depicts the boundary of the jurisdiction of Section 404 of the Clean Water Act within the designated Inset Area, as determined by the undersigned on this date. Other areas of jurisdiction may be present on the site but have not been delineated. Unless there is change in the law or our published regulations, this determination of Section 404 jurisdiction may be relied upon for a period not to exceed five years from this date. This determination was made utilizing the 1987 Corps of Engineers Wetland Delineation Manual."

Regulatory Official _____
Title _____
Date _____
USACE Action ID _____

c. When There May Be Upland Within The Depicted Jurisdictional Boundary:

"This certifies that this copy of this plat identifies as wetlands all areas of wetlands regulated pursuant to Section 404 of the Clean Water Act as determined by the undersigned on this date. Unless there is change in the law or our published regulations, this determination of Section 404 jurisdiction may be relied upon for a period not to exceed five years from this date. This determination was made utilizing the 1987 Corps of Engineers Wetland Delineation Manual."

Regulatory Official _____
Title _____
Date _____
USACE Action ID _____