



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SEP 24 2008

MEMORANDUM FOR DIRECTOR OF CIVIL WORKS

SUBJECT: Traditional Navigable Water Determinations Under the Clean Water Act

Effective immediately, the determination that a specific water body is a "traditional navigable water" (TNW) will be made by the Division Commander. Such TNW determinations will be based on a formal report of findings prepared by the District Engineer, accompanied by a legal opinion of the District counsel, and forwarded to the Division Commander for final decision. Every formal report of findings will be based substantially on applicable portions of the format described in paragraph (c) of 33 C.F.R. §329.14.

This directive applies to stand-alone TNW determinations for watercourses where the District Engineer proposes an upstream and downstream limit of navigability. This directive does not apply to TNW determinations associated with approved jurisdictional determination(s) or authorizations for the discharge of dredged or fill material into all waters of the United States, including wetlands. The purpose of this directive is to require additional technical review and oversight of TNW determinations affecting watercourses and/or significant aquatic resources. This review will establish whether or not the TNW determination is supported by the Clean Water Act, the agency's implementing regulations, relevant case law, and existing guidance.

This directive shall remain in effect until rescinded in writing.

A handwritten signature in black ink that reads "John Paul Woodley, Jr." in a cursive script.

John Paul Woodley, Jr.
Assistant Secretary of the Army
(Civil Works)