



**DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS JACKSONVILLE DISTRICT,
9900 SW 107TH AVENUE, SUITE 203
MIAMI, FLORIDA 33176-2785**

REPLY TO
ATTENTION OF

May 04, 2023

Regulatory Division
South Permits Branch
Antilles-Miami Section
SAJ-2023-00198(PJD-VEK)
PRELIMINARY JD

Alfonso Valdés
Azure Development, Inc.
P.O. Box 191937
San Juan, PR 00919

Dear Mr. Valdés:

Reference is made to your request for a preliminary jurisdictional determination (preliminary JD) dated January 19, 2023. Based on information submitted to the U.S. Army Corps of Engineers (Corps) we have preliminarily determined there may be waters of the United States (including wetlands) and we have indicated the approximate location(s) of waters of the United States or wetlands within an 18.5-acre area located along Ocean Drive Avenue on Parcel #'s 092-000-003-03 and 092-000-008-18 in the Punta La Bandera Sector in the Municipality of Luquillo, Puerto Rico. A copy of the preliminary JD form in support of our preliminary JD is enclosed. Please carefully read the preliminary JD form, then sign and return a copy to us within 30 days from the date of this letter.

Please be advised a Department of the Army permit will be required for regulated work in all areas which may be waters of the United States, as indicated in this preliminary JD. For purposes of computation of impacts, compensatory mitigation requirements, and other resource protection measures, a permit decision made on the basis of a preliminary JD will treat all waters and wetlands, which would be affected in any way by the permitted activity on the site, as if they are jurisdictional waters of the United States.

Should you desire an official Corps determination that jurisdictional "waters of the United States," or "navigable waters of the United States," or both, are either present or absent on a particular site, the Corps will issue an approved JD when requested.

You are cautioned that work performed in areas which may be waters of the United States, as indicated in the preliminary JD, without a Department of the Army permit could subject you to enforcement action. Receipt of a permit from another agency does not obviate the requirement for obtaining a Department of the Army permit for such work prior to commencing work.

This preliminary JD has been conducted to identify the potential for Clean Water Act and/or Rivers and Harbors Act jurisdiction for the particular site identified in this request. This preliminary JD may not be valid for the wetland conservation provisions of the Food Security Act of 1985, as amended. If you or your tenant are U.S. Department of Agriculture (USDA) program participants, or anticipate participation in USDA programs,

you should request a certified wetland determination from the local office of the Natural Resources Conservation Service prior to starting work.

The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to take a few minutes to visit <https://regulatory.ops.usace.army.mil/customer-service-survey/> and complete our automated Customer Service Survey. Your input is appreciated – favorable or otherwise.

Thank you for your cooperation with our permit program. If you have any questions concerning this matter please contact Virginia King by electronic mail at Virginia.E.King@usace.army.mil or by telephone at 904-248-8516.

Sincerely,

A handwritten signature in black ink, appearing to read 'Virginia King', with a stylized flourish at the end.

Virginia King
Project Manager

Enclosures

- Attachment 1: Notification of Administrative Appeal Form
- Attachment 2: Preliminary Jurisdictional Determination (PJD)
- Attachment 3: PJD Review Area Map
- Attachment 4: Aquatic Resources Map

cc: Alejandro Cubiñá; President, Reforesta, Inc.; reforest@coqui.net

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: Alfonso Valdés	File Number: SAJ-2023-00198 (PJD-VEK)	Date: 05/04/23
Attached is:		See Section below
<input type="checkbox"/> INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
<input type="checkbox"/> PROFFERED PERMIT (Standard Permit or Letter of permission)		B
<input type="checkbox"/> PERMIT DENIAL		C
<input type="checkbox"/> APPROVED JURISDICTIONAL DETERMINATION		D
<input checked="" type="checkbox"/> PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usacc.army.mil/CECW/Pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision you may contact:

Project Manager as noted in letter

If you have questions regarding the appeal process you may contact:

**Phillip A. Shannin
404-562-5136**

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

**PRELIMINARY JURISDICTIONAL DETERMINATION (PJD) FORM
(RGL 16-01 Appendix 2)**

BACKGROUND INFORMATION

A. REPORT COMPLETION DATE FOR PJD: 05/04/2023

B. NAME AND ADDRESS OF PERSON REQUESTING PJD:

Alfonso Valdés
Azure Development, Inc.
P.O. Box 191937
San Juan, PR 00919

C. DISTRICT OFFICE, FILE NAME, AND NUMBER:

Jacksonville District Regulatory Division
South Permits Branch
Antilles-Miami Section
Parcels at Punta La Bandera-Luquillo
SAJ-2023-00198 (PJD-VEK)

**D. PROJECT LOCATION(S) AND BACKGROUND INFORMATION:
(USE THE TABLE BELOW TO DOCUMENT MULTIPLE AQUATIC
RESOURCES AND/OR AQUATIC RESOURCES AT DIFFERENT SITES)**

Parcel ID#'s: 092-000-003-03 and 092-000-008-18

State or U.S. Territory: Puerto Rico

County/parish/borough: Mata de Platano Ward

City: Luquillo

Center coordinates of site (lat/long in degree decimal format):

Lat. 18.388201° Long. -65.722780°

Universal Transverse Mercator: Zone 20, Northern Hemisphere

Name of nearest waterbody: Atlantic Ocean

**E. REVIEW PERFORMED FOR SITE EVALUATION (CHECK ALL THAT
APPLY):**

☒ Office (Desk) Determination. Date: 05/04/2023

☐ Field Determination. Date(s):

**TABLE OF AQUATIC RESOURCES IN REVIEW AREA WHICH "MAY BE"
SUBJECT TO REGULATORY JURISDICTION.**

Site number	Latitude (decimal degrees)	Longitude (decimal degrees)	Estimated amount of aquatic resource in review area (acreage and linear feet, if applicable)	Type of aquatic resource (i.e. wetland vs. non- wetland waters)	Geographic authority to which the aquatic resource "may be" subject (i.e. Section 404 or Section 10/404
Wetland 1	18.388069	-65.723644	6.15 acres	Estuarine Forested Wetland	Section 10/404

- 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) that 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 is 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: PJD Review Area Map; Aquatic Resources Map (Submitted January 2023)
- ☒ 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.
- ☐ 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: USGS Topo Map courtesy of Puerto Rico and USVI Regulatory Viewer (Generated April 6, 2023).
- ☒ Natural Resources Conservation Service Soil Survey. Citation: Custom Soil Resource Report for Humacao Area, Puerto Rico Eastern Part (Generated January 13, 2023).
- ☒ National wetlands inventory map(s). Cite name: Azure Punta La Bandera (Generated January 13, 2023)
- ☐ State/Local wetland inventory map(s): .
- ☒ FEMA/FIRM maps: FEMA National Flood Hazard Map (Data Refreshed October 2020)
- ☐ 100-year Floodplain Elevation is: (National Geodetic Vertical Datum of 1929)

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.

☒ Photographs: ☒ Aerial (Name & Date): Google Earth Aerials (March 2004-December 2022); National Regulatory Viewer Lidar (Generated May 03, 2023)

or ☐ Other (Name & Date):

☒ Previous determination(s). File no. and date of response letter:
Preliminary JD SAJ-1999-00025 (JD-CGR) dated February 10, 2017.

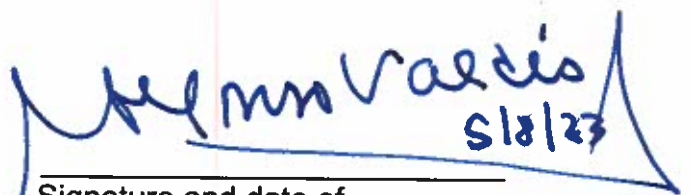
☐ Other information (please specify):

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.



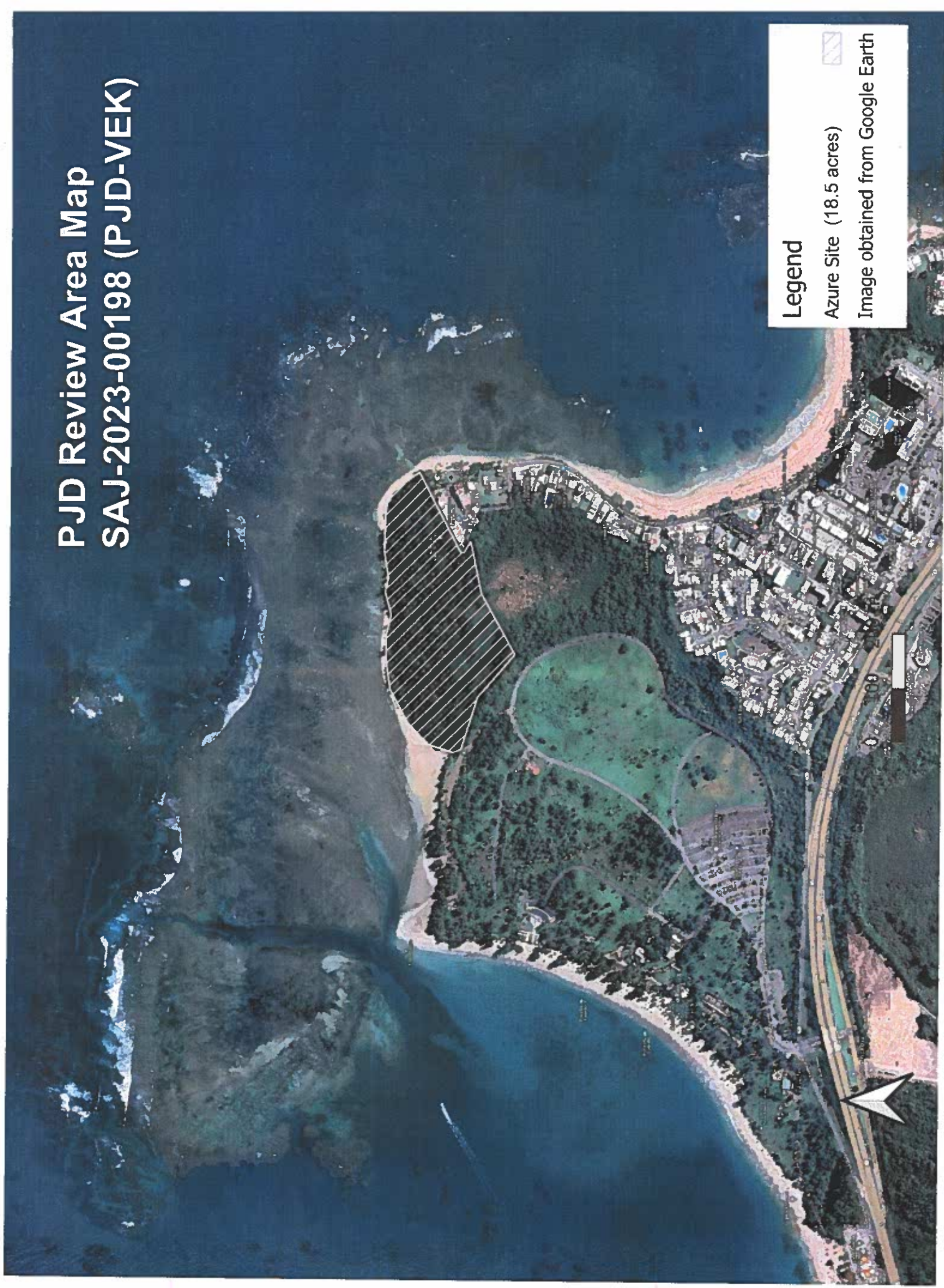
05/04/2023

Signature and date of
Regulatory staff member
completing PJD



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

PJD Review Area Map SAJ-2023-00198 (PJD-VEK)



Legend



Azure Site (18.5 acres)

Image obtained from Google Earth

Aquatic Resources Map (SAJ-2023-00198 (PJD-VEK))

