



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): April 8, 2021

ORM Number: SAC-2020-01776

Associated JDs: N/A

Review Area Location¹:

State: South Carolina City: Ridgeville County: Dorchester

Center Coordinates of Review Area: Latitude 33.0613°N Longitude -80.3150°W

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
- ☐ 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

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

Tributaries ((a)(2) waters):

(a)(2) Name	(a)(2) Size	(a)(2) Criteria	Rationale for (a)(2) Determination
Jurisdictional Tributary 1 - Captains Creek	24 linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	The tributary is a naturally occurring named feature (Captains Creek) that flows directly into Cypress Swamp (a)(2) water. The tributary is depicted as a solid blue line on topographic maps. The tributary is readily visible on aerial photographs and demonstrates continuous flow with natural sinuosity. The tributary is also depicted on LiDAR maps as a natural, meandering stream. In accordance with the information mentioned above and the photographs submitted by the consultant, the Corps has determined that the tributary has perennial flow.
Jurisdictional	25 linear feet	(a)(2) Perennial tributary contributes	Tributary 2 is an unnamed tributary that flows parallel to

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 independent 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

Tributary 2		surface water flow directly or indirectly to an (a)(1) water in a typical year	Captains Creek and then flows southeast directly into Captains Creek. Tributary 2 is visible on aerial photographs and LiDAR maps and demonstrates continuous flow with natural, meandering sinuosity. Google Street view also suggest that tributary has perennial flow. Flowing water was observed in the field by the consultant and is visible on Google Street view. Google Street view also depicts a large, concrete box culvert under Givhans Road which allows for large volumes of flow. In accordance with the information mentioned above and the photographs submitted by the consultant, the Corps has determined that the tributary has perennial flow.
-------------	--	--	--

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

Adjacent wetlands ((a)(4) waters):

(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
N/A	N/A	N/A	N/A

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Excluded Water – Ditch 1	24 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)	Excluded Water 1 (Ditch) located within the review area is excavated entirely from uplands and does not meet the criteria of a jurisdictional water. The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland. Flow if any within the feature appears to be directly in response to precipitation.

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.

X Information submitted by, or on behalf of, the applicant/consultant: Givhans Road submittal dated December 2, 2020, by Passarella & Associates, Inc. (Sydni Redmond).

This information is sufficient for purposes of this AJD.

Rationale: The Corps agrees with the conclusions of the submitted data sheets and submittal.

Data sheets prepared by the Corps: N/A.

X Photographs: Google Earth 2019 Imagery / USGS National Map 3D Elevation Program (3DEP) published August 13, 2020 / site photographs from the consultant dated November 2020.

 Corps Site visit(s) conducted on: 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 independent 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.

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.



U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE

- Previous Jurisdictional Determinations (AJDs or PJDs): N/A
- ☒ Antecedent Precipitation Tool: provide detailed discussion in Section III.B.
- ☒ USDA NRCS Soil Survey: USA Soils Map Units (SSURGO) Map Service dated April 4, 2019; updated August 26, 2020 / Soil maps also provided by the agent dated November 20, 2020.
- ☒ USFWS NWI maps: Wetlands Raster REST map service dated May 29, 2012, updated July 17, 2020.
- ☒ USGS topographic maps: USGS Topographic Maps / Sewee Bay Quad / 7.5 Minute Index / 1:240000.

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS Topographic Maps
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	USACE-SAC Regulatory Viewer
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

- B. Typical year assessment(s):** Antecedent Precipitation Tool (APT) data for typical year determination was calculated on November 19, 2020. Output from the APT indicated "Wetter than Normal" conditions on November 19, 2020, with a condition value of 15. ATP outputs with a condition value greater than 14 indicate "Wetter than Normal" conditions. Results of the APT indicate observations during this time would not be considered within a "typical year". For this assessment, a total of 10 weather stations within a 5.5-mile radius were used.
- C. Additional comments to support AJD.** Tributary 1 (a)(2) is a named feature know as Captains Creek and Tributary 2 (a)(2) is an unnamed feature that flows parallel to Captains Creek to the north. Captains Creek is depicted as a solid blue line on topographic maps. Both tributaries are easily visible on aerial photography and demonstrate continuous flow with natural sinuosity. Flowing water in both tributaries was observed in the field by the consultant and is visible on Google Street view and photographs provided by the consultant. Google Street view also depicts a large, concrete box culvert under Givhans Road for both tributaries which suggests large volumes of flow. In accordance with the information mentioned above and the photographs submitted by the consultant, the Corps has determined that Tributary 1 (Captains Creek) and Tributary 2 have perennial flow. In addition, Excluded Water 1 (b)(5) (Ditch) located within the review area is excavated entirely from uplands and does not meet the criteria of a jurisdictional water. The feature is neither naturally occurring, a diversion of a tributary, nor constructed within the boundaries of an adjacent wetland. Flow, if any within the feature, appears to be directly in response to precipitation.

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 independent 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.

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.