



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): February 17, 2021

ORM Number: SAC-2018-00754

Associated JDs: SAC 2018-00754 PJD issued September 28, 2018

Review Area Location¹:

State: SC City: County: Chester County

Center Coordinates of Review Area: Latitude 34.813239 Longitude -81.11323

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 or describe rationale.
- ☐ 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
PS1/SFFC (Perennial Stream 1- S. Fork Fishing Creek)	312 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 1, South Fork of Fishing Creek is a naturally occurring surface water channel that contributes perennial surface water flow to the Catawba River (TNW) in a typical year through Fishing Creek. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Stream 1, South Fork of Fishing Creek flows to Fishing Creek, which flows to the Catawba River. Stream 1, South Fork Fishing Creek is shown as a distinct channel on the LiDAR map, as a solid blue line on the USGS topographic map and on the NWI map. Flow was observed by the Corps during the field view on January

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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.

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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.



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			27, 2021. Therefore, the Corps has determined this tributary to be an (a)(2) water of the U.S.
PS2/SFFC (Perennial Stream 2- S. Fork Fishing Creek)	180 feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year	Stream 2, South Fork of Fishing Creek is a naturally occurring surface water channel that contributes perennial surface water flow to the Catawba River (TNW) in a typical year through Fishing Creek. Based on a review of photographs submitted by the consultant, LiDAR and other maps, Stream 2, South Fork of Fishing Creek flows to Fishing Creek, which flows to the Catawba River. Stream 2, South Fork Fishing Creek is shown as a distinct channel on the LiDAR map, as a solid blue line on the USGS topographic map and on the NWI map. Flow was observed by the Corps during the field view on January 27, 2021. Therefore, the Corps has determined this tributary to be an (a)(2) water of the U.S.

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
WL10 (Wetland 10)	0.06 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 10 abuts Stream 1, South Fork Fishing Creek, an (a)(2) water, as discussed above. During the January 27, 2021 field view the Corps confirmed that the wetland is abutting South Fork Fishing Creek and is within an area which is likely inundated on a seasonal basis by out of bank waters from South Fork Fishing Creek. Therefore, the Corps has determined that Wetland 10 is an (a)(4) water of the U.S.
WL11 (Wetland 11)	0.17 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 11 is part of a larger wetland, (based upon Lidar, topographic, NWI mapping and field view confirmation on January 27, 2021) that continues outside of the project limits and abuts an unnamed tributary to South Fork Fishing Creek that appears as a dashed blue line on the USGS topographic map. This tributary was determined by the Corps to be an (a)(2) water, based upon established bed and banks, and observed flow. Therefore, the Corps has determined that Wetland 11 is an (a)(4) water of the U.S.
WL5 (Wetland 5)	0.15 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 5 abuts Stream 1, South Fork Fishing Creek, an (a)(2) water, as discussed above. During the January 27, 2021 field view the Corps confirmed that the wetland abuts South Fork Fishing Creek and is within an area which is likely inundated on a seasonal basis by out of bank waters from South Fork Fishing Creek. Therefore, the Corps has determined that

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WL7 (Wetland 7)	0.12 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 5 is an (a)(4) water of the U.S. Wetland 7 is part of a larger wetland, (based upon Lidar, topographic and NWI mapping) that continues outside of the project limits and abuts South Fork Fishing Creek, an (a)(2) water, as discussed above. Therefore, the Corps has determined that Wetland 7 is an (a)(4) water of the U.S.
WL8 (Wetland 8)	0.33 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 8 is part of a larger wetland, (based upon Lidar, topographic and NWI mapping) that continues outside of the project limits which abuts South Fork Fishing Creek, an (a)(2) water, as discussed above. Therefore, the Corps has determined that Wetland 8 is an (a)(4)
WL9 (Wetland 9)	0.28 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland 9 abuts South Fork Fishing Creek, an (a)(2) water, as discussed above. During the January 27, 2021 field view the Corps confirmed that the wetland abuts South Fork Fishing Creek and is within an area which is likely inundated on a seasonal basis by out of bank waters from South Fork Fishing Creek. Therefore, the Corps has determined that Wetland 9 is an (a)(4) water of the U.S.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
WL1 (Wetland 1)	0.27 acres	(b)(1) Non-adjacent wetland	Wetland 1 is a closed boundary polygon that continues beyond the project boundary, that is not contiguous or directly abutting and (a)(1)-(a)(3) water. Based upon the field view on January 27, 2021, this wetland was not observed to be connected to or abutting any water of the U.S. This observation is confirmed based upon Lidar, topographic and NWI mapping. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus Wetland 1 is an excluded water pursuant to (b)(1).
WL2 (Wetland 2)	0.17 acres	(b)(1) Non-adjacent wetland	Wetland 2 is a closed boundary polygon that continues beyond the project boundary, that is not contiguous or directly abutting and (a)(1)-(a)(3) water. Based upon the field view on January 27, 2021, this wetland was not observed to be connected to or abutting any water of the U.S. This observation is confirmed based upon Lidar, topographic and NWI mapping. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus Wetland 2 is an excluded water pursuant to (b)(1).
WL3 (Wetland 3)	0.1 acres	(b)(1) Non-adjacent wetland	Wetland 3 is a closed boundary polygon within the project boundary, that is not contiguous or directly abutting and (a)(1)-(a)(3) water. Based upon the field

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			view on January 27, 2021, this wetland included standing water and may have been created due to a solid fill access-way that is impounding water. There was no direct hydrologic connection observed through this access-way and there was no flow observed coming from Wetland 3. Wetland 3 was not observed to be connected to or abutting any water of the U.S. This observation is confirmed based upon Lidar, topographic and NWI mapping. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus Wetland 3 is an excluded water pursuant to (b)(1).
WL4 (Wetland 4)	0.44 acres	(b)(1) Non-adjacent wetland	Excluded Water, Wetland 4 is a closed boundary polygon within this project boundary that is not contiguous or directly abutting an (a)(1)-(a)(3) water. This wetland is in an upland location not connected to or abutting any water of the U.S. Nor does Wetland 4 receive inundation by flooding from a (a)(1)-(3) water. During the January 27, 2021 field view this wetland was inundated and overland flow from Wetland 4 was observed to a roadside ditch located on the east side of SC-72. This ditch flows south to South Fork of Fishing Creek, located approximately 300 linear feet away. This indirect connection (ditch) was observed to be an upland dug ditch constructed to direct storm water away from the SC-72 roadway fill. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus Wetland 4 is an excluded water pursuant to (b)(1).
WL6 (Wetland 6)	0.45 acres	(b)(1) Non-adjacent wetland	Excluded Water, Wetland 6 is a closed boundary polygon within this project boundary that is not contiguous or directly abutting an (a)(1)-(a)(3) water. This wetland is in an upland location not connected to or abutting any water of the U.S. Nor does Wetland 6 receive inundation by flooding from a (a)(1)-(3) water. During the January 27, 2021 field view this wetland was inundated and overland flow from Wetland 6 was observed to a roadside ditch located on the east side of SC-72. This ditch flows north to South Fork of Fishing Creek, located approximately 1500 linear feet away. This indirect connection (ditch) was observed to be an upland dug ditch constructed to direct storm water away from the SC-72 roadway fill. In addition, this wetland does not meet any of the other (a)(4) criteria for adjacency and thus Wetland 6 is an excluded water pursuant to (b)(1).

III. SUPPORTING INFORMATION

¹ Map(s)/Figure(s) are attached to the AJD provided to the requestor.

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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.

☒ Information submitted by, or on behalf of, the applicant/consultant: *Figure 2 titled, "Survey Area-Topographic SC-72 Bridge Replacement over S. Fork Fishing Creek SCDOT PIN: P037782 Chester County, SC" dated July 2020 and Figure 5 titled, "Waters of the US-Aerial Overlay SC-72 Bridge Replacement over S. Fork Fishing Creek SCDOT PIN: P037782 Chester County, SC" dated July 2020 and Revised February 2021.*

This information (is) sufficient for purposes of this AJD.

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

Data sheets prepared by the Corps: *N/A.*

☒ Photographs: *Photos provided by the consultant, LIDAR, Google Earth aerial photography and USGS National Map 3D Elevation Program (3DEP) Map Service*

☒ Corps Site visit(s) conducted on: *January 27, 2021*

☒ Previous Jurisdictional Determinations (AJDs or PJDs): *SAC 2018-00754 PJD issued September 28, 2018*

☒ Antecedent Precipitation Tool: *detailed discussion in Section III.B.*

☒ USDA NRCS Soil Survey: *NRCS Hydric Soil Rating Map provided by the consultant dated July 2020.*

☒ USFWS NWI maps: *ESRI & USFWS National Wetland Inventory Map provided by the consultant dated July 2020*

☒ USGS topographic maps: *1:24,000 Edgemoor, SC quadrangle*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	USGS National Map 3D Elevation Program (3DEP) Map Service
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed February 16, 2021
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 based on Corps field view date (January 27, 2021). Output from the APT indicated "Normal" conditions with a value of 12.

C. Additional comments to support AJD: The review area covers 26.98 acres and includes one (a)(2) waters (two separate locations), six (a)(4) waters, and five excluded waters.

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Streams PS1 & PS 2 are (a)(2) waters (South Fork Fishing Creek), each with flow in a distinct channel observed during the consultant's site visits. Flow in South Fork Fishing Creek was confirmed during the field view on January 27, 2021.

Wetlands WL5, WL10, WL9, WL8 & WL7 abut South Fork Fishing Creek making each an (a)(4) water. Wetland WL11 abuts an unnamed Tributary to South Fork Fishing Creek outside of the project area (observed on January 27, 2021) making WL11 an (a)(4) waters.

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