



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): July 20, 2021

ORM Number: SAC-2021-01224

Associated JDs: Portion of tract reviewed under SAC-2012-00241-3

Review Area Location¹: a 66.7-acre site located south of and adjacent to Water Tower Road, property identified as Horry County PIN# 389-00-00-0003 & 0234

State: SC City: North Myrtle Beach County: Horry County

Center Coordinates of Review Area: Latitude 33.7960 Longitude -78.7941

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
Tributary 1	1044 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 tributary (Long Branch that flows directly to the Atlantic Intracoastal Waterway an (A)(1) water. The tributary was determined to have a perennial flow regime by previous site visits (2012) Jurisdictional Determinations, (SAC-2012-00661-3JH), review of USGS Topographic Maps, Horry County Soil Survey, various aerial photos and USGS National Hydrology Dataset (NHD) map.
Tributary 2	475 feet	(a)(2) Perennial tributary contributes surface water flow directly or	The resource is a naturally occurring unnamed tributary that flows indirectly to the Atlantic Intracoastal

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

		indirectly to an (a)(1) water in a typical year	Waterway an (A)(1) water. The tributary was determined to have a flow regime of perennial by review previous site visits (2012) Jurisdictional Determination, (SAC-2012-00241-3JY), review of various aerial photos depicting a signature of a tributary with water, and Lidar.
--	--	---	---

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
Jurisdictional Wetland	3.1 acres	(a)(4) Wetland abuts an (a)(1)-(a)(3) water	Wetland directly abuts the onsite tributaries

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12))⁴:

Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
EWb5 #1	1144.6 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)	EWb5 #1 (Ditch) located within the review area was 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.
EWb5 #2	148.3 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)	EWb5 #2 (Ditch) located within the review area was 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.
EWb5 #3	326.5 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)	EWb5 #3 (Ditch) located within the review area was 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.
EWb5 #4	346.7 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)	EWb5 #4 (Ditch) located within the review area was 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.
EWb5 #5	457.9 feet	(b)(5) Ditch that is not an (a)(1) or (a)(2) water, and those portions of a	EWb5 #5 (Ditch) located within the review area was excavated entirely from uplands and does not meet the

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

		ditch constructed in an (a)(4) water that do not satisfy the conditions of (c)(1)	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.
EWb5 #6	173.7 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)	EWb5 #6 (Ditch) located within the review area was 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.
EWb5 #7	349.2 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)	EWb5 #7 (Ditch) located within the review area was 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.
EWb5 #8	443.7 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)	EWb5 #8 (Ditch) located within the review area was 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.
EWb5 #9	102.1 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)	EWb5 #9 (Ditch) located within the review area was 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.
Excluded Water 1 (Pond)	4.4 acres	(b)(8) Artificial lake/pond constructed or excavated in upland or a non-jurisdictional water, so long as the artificial lake or pond is not an impoundment of a jurisdictional water that meets (c)(6)	Excluded Waters 1 is a pond located within the review area and was determined to be wholly excavated from uplands, does not contribute flow to an (a)(1-3) water, and does not meet the criteria of a jurisdictional feature as identified in paragraph (c)(6). The onsite pond appears to be an abandoned borrow area.

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: *AJD request submitted by S&ME, Inc., on behalf of Keith Hinson, dated July 14, 2021.*

This information is sufficient for purposes of this AJD.

Rationale: The wetland data forms, and additional information submitted by the agent are a reasonable representation of site conditions at the time of collection and are sufficient for purposes of this AJD.

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

- ☐ Data sheets prepared by the Corps: *N/A*
- ☒ Photographs: *Aerial and other photos submitted by S&ME in the submittal dated July 14, 2021, and 2019 Google Earth and 2006 SCDNR aerial photos. (NA, aerial, other, aerial and other).*
- ☐ Corps Site visit(s) conducted on: *Date(s).*
- ☒ Previous Jurisdictional Determinations (AJDs or PJDs): *SAC-2012-00241-3JY, April 2012.*
- ☐ Antecedent Precipitation Tool: *provide detailed discussion in Section III.B.*
- ☒ USDA NRCS Soil Survey: *NRCS / Soil Survey Geographic Database (SSURGO) Map Service dated March 31, 2021, updated April 26, 2021, ESRI Map Service depicts the soil types of Lynn Haven, Leon, and Centemary.*
- ☒ USFWS NWI maps: *USFWS NWI Map Service Maps depicts review area as uplands with the delineated wetlands as wetlands. NWI map depicts the upland excavated pond (Excluded Waters 1) as uplands other potential wetland areas as partially ditched/draind wetlands as PSS4/3Bd and PSS4B. Jurisdictional waters are depicted as PFO1B.*
- ☒ USGS topographic maps: *USGS Topographic Map / 7.5 Minute Index / Hand Quad / 1:24000. Topographic map depicts the review area as forested uplands and wetlands with a solid blue line feature running through wetlands. Solid blue line features on topographic maps typically represent tributaries with a flow regime of perennial.*

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	Topographic map and National Hydrology Dataset (NHD) map.
USDA Sources	Soil Survey.
NOAA Sources	N/A.
USACE Sources	SAC Regulatory Viewer accessed on 19 JUL 2021.
State/Local/Tribal Sources	N/A.
Other Sources	N/A.

B. Typical year assessment(s): *N/A.*

C. Additional comments to support AJD: *The review is a partially timbered site with non-disturbed forested wetlands. The review area contains the run (tributary) of Long Branch, and freshwater wetlands adjacent, directly abutting the tributary and an upland excavated borrow area determined to be an excluded water. In addition, the review area contains upland excavated ditches that have been determined to be excluded waters. Site visit was not performed.*

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.